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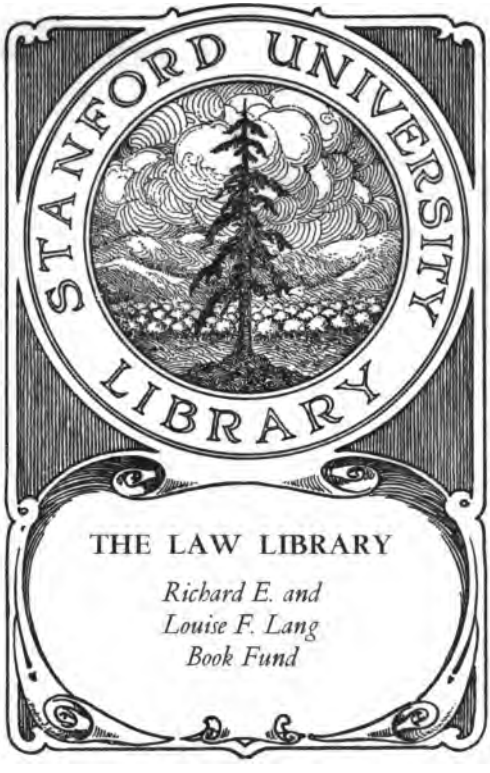

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TRIAL

OF

COLONEL QUENTIN.

THE

TRIAL

OF

COLONEL QUENTIN,

OF

The Tenth,

OR,

PRINCE OF WALES'S OWN REGIMENT OF HUSSARS,

BY

A GENERAL COURT-MARTIAL,

HELD AT WHITEHALL,

On Monday, the 17th of October, 1814; *and continued, by Adjournment, till Monday, the 31st of October*, 1814.

Taken in Short-Hand

BY MR. W. B. GURNEY,

Short-Hand Writer to both Houses of Parliament.

LONDON:

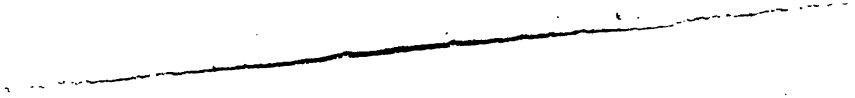
PUBLISHED BY GALE, CURTIS, AND FENNER,

PATERNOSTER ROW;

AND EGERTON, WHITEHALL.

1814.

W. Flint, Printer, Old Bailey, London.



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ERRATUM.

The Reader is requested to correct the name of Colonel Quentin, which by a mistake, has nearly all the way been spelt Quintin.

TRIAL

OF

COLONEL QUINTIN.

AT a GENERAL COURT-MARTIAL held at WHITEHALL, on MONDAY, the 17th of OCTOBER, 1814, in virtue of a Special Warrant from His Royal Highness the PRINCE REGENT, dated the 13th of SEPTEMBER, 1814.

The Warrant was read.

The following Officers were sworn as Members of the Court:—

GENERAL VYSE, *President:*

LIEUT.-GEN. CHAMPAGNE,	MAJOR-GEN. DILKES,
LIEUT.-GEN. FRASER,	MAJOR-GEN. THE HON. G. DE GREY,
LIEUT.-GEN. SIR SAMUEL AUCHMUTY,	MAJOR-GEN. REBOW,
LIEUT.-GEN. HOUSTON,	MAJOR-GEN. BULLER,
MAJOR-GEN. BOLTON,	MAJOR-GEN. BRADFORD,
MAJOR GEN. THE HON. T. MAHON,	MAJOR-GEN. VICARS,
	MAJOR-GEN. REYNARDSON.

THE RIGHT HON. CHARLES MANNERS SUTTON, *Judge Advocate General,* took the oath required.

The Charges were read as follow:

1st. That on the 10th day of January, 1814, the regiment being on that day on duty, foraging in the Valley of Macoy, in France, Colonel Quintin having the command of the regiment, did not make the proper and timely arrangements to ensure the success of the regiment in its operations of foraging, although directed so to do by the brigade orders of the 9th of January, 1814: but neglected and abandoned his duty as commanding officer, leaving some of the divisions without orders or support when attacked by the enemy, whereby some men and horses of the regiment were taken prisoners, and the safety of such divisions hazarded: such conduct on the part of the said Colonel Quintin evincing great professional incapacity, tending to lessen the confidence of the soldiers of the regiment in the skill and courage of their officers, being unbecoming and disgraceful to his character as an officer, prejudicial to good order and military discipline, and contrary to the articles of war.

2d. That the said Colonel Quintin having the command of the regiment the day after the battle of Orthes, viz. on the 28th day of February, 1814, on the high road leading to St. Sever, in front of the village of Hagelman, departement de Landes, in France, and the regiment being on that day engaged with the enemy, he the said Colonel Quintin did not, previously to, or during the period the regiment was so engaged, make such effectual attempts as he ought to have done, by his presence, and his own personal exertions and example to co-operate with, or support the advanced divisions of the 10th Hussars under his command; but neglected and abandoned his duty as commanding officer, and thereby hazarded the safety of those divisions, and the character and reputation of the regiment: such conduct on the part of the said Colonel Quintin tending to lessen the confidence of the soldiers in the skill and courage of their officers, being unbecoming his character as an officer, prejudicial to good order and military discipline, and contrary to the articles of war.

3d. That on the 10th day of April, 1814, during the battle of Toulouse, in France, the said Colonel Quintin having the command of the regiment, and the regiment being on that day in the presence of, and attacked by the enemy, he, the said Colonel Quintin, did not, during such attack, make such effectual attempts as he ought to have done, by his presence and his own personal exertions, to co-operate with, or support the advanced divisions of the regiment under his command; but neglected and abandoned his duty as commanding officer, leaving some of the divisions, when under fire from the enemy, without orders; and thereby unnecessarily hazarding the safety and reputation of those divisions: such conduct on the part of the said Colonel Quintin tending to lessen the confidence of the soldiers of the regiment in the skill and courage of their officers, being unbecoming and disgraceful to his character as an officer, prejudicial to good order and military discipline, and contrary to the articles of war.

4th. For general neglect of duty, by allowing a relaxed discipline to exist in the regiment under his command, when on foreign service; by which the reputation of the regiment suffered in the opinion of the commander of the forces, and of the lieutenant-general commanding the cavalry; their displeasure having been expressed or implied in a letter from the adjutant-general of the forces, addressed to Major-General Lord Edward Somerset, commanding the Hussar brigade, dated on or about the 29th of March, 1814; and in the orders of the lieutenant-general commanding the cavalry, dated the 26th of February, 1814: such conduct on the part of the said Colonel Quintin being unbecoming his character as an officer, prejudicial to His Majesty's service, and subversive of all order and military regulation and discipline, and contrary to the articles of war.

Judge Advocate General. Colonel Quintin; do you admit yourself properly described in this warrant, as of the Prince of Wales's own regiment of Hussars?

Col. Quintin. I do.

Judge Advocate General. Are you guilty, or not guilty?

Col. Quintin. Not guilty.

The witnesses were directed to withdraw, an exception being made in favour of Lieut. Colonel Ponsonby, on its being stated by Colonel Quintin, that he was not to be called to facts included in the charges.

COLONEL PALMER.

General Vyse, and Gentlemen of the Court-Martial:

Before I proceed to the evidence upon these charges, may I be permitted to say a few words on behalf of myself, and those for whom I appear on this occasion? With respect to myself, the circumstances of my situation as prosecutor, render it necessary for me to declare that I act only in obedience to the commands I have received, and that in no way whatever do I conceive that I have been accessary to these proceedings which I have been called upon to conduct: at the same time I am far from wishing to shelter myself from any responsibility I may be supposed to have incurred; and, however I may lament it, to complain of the task imposed upon me. Being on service with my regiment, at the period to which these charges allude, it was impossible for me not to entertain opinions upon the subject; and, consistently with those opinions, I felt it to be equally impossible with honour to myself, or in justice to the regiment, to decline the painful duty I have undertaken.

With respect to my brother officers, considering the publicity which has been given to their case, the misrepresentations which have been made, and the prejudices that have been excited, I cannot but regret that the same motives of delicacy by which their conduct has been actuated throughout, and to which those misrepresentations and misconceptions are to be imputed, should preclude me, on the present occasion, from entering into a full and fair detail of those circumstances which I am convinced would do away the slightest impression to their disadvantage. In stating this I beg most respectfully to assure the Court that I do not for a moment mean to impute any prejudice to them, beyond that which minds equally honourable as their own, must, I think, feel upon this occasion. I conceive it is impossible for any one to look at these charges, to consider by whom they are preferred, and the period which has elapsed since these charges ought to have been brought forward, without feeling a bias in favour of the party thus accused; and I think I cannot give a stronger proof of the confi-

dence I place in the justice, the honour, and the liberality of this Court, than by refraining from entering into that full explanation of the motives of the prosecutors, which if ever an occasion called for it, is the present. Thus situated I can only declare for them, and I pledge my own honour for the truth of their assertions, that however invidious the light in which they may appear, nothing could have been further from their intentions than to injure the individual they have been called upon to prosecute, and that the sole object they have had in view has been to do justice to themselves, and to vindicate the honour and character of their regiment. They urge the delay of these proceedings in proof of those feelings; and I can assure the Court that the cause of that delay has been those motives of delicacy to which I have before alluded, and the conviction that representations from others, whose motives and whose judgment upon this occasion could neither have been misconceived nor doubted, would have rendered the appeal they were afterwards obliged to make unnecessary.

With respect to this court-martial, I beg to declare that nothing could have been further from their wishes, or less contemplated on their part: the utmost object they looked forward to was that investigation or enquiry which would give them an opportunity of stating the facts, leaving to others, not themselves, to be the judges: and they cannot but feel the difficulty of their situation, in being compelled to bring forward an accusation against their commanding officer, of so general a nature as that of incapacity and want of zeal in the performance of his duty, whilst they are precluded from bringing forward any other facts or circumstances, in proof of that accusation, excepting those particular instances which have been selected as the charges to be substantiated by all those rules of evidence, which however necessary for the purposes of conviction, may be more than necessary to justify the opinion of misconduct.

Thus situated they can only state the motives by which they have been actuated, and declare, that had Colonel Quintin, by his general conduct in the command of his regiment, either as relating to its active service or its interior discipline, entitled himself to their confidence and respect, it would have been as little their inclination as their interest to have availed themselves of any partial errors he might have committed; but where no such con-

sideration has been raised, and they have been reduced to the alternative of either sharing in the disgrace brought on the regiment, or standing forward as his accusers, they trust no unworthy motives will be attributed to their conduct. I beg leave to thank the Court for their indulgence to the observations I have made, and will now proceed to adduce the evidence in support of the charges.

Judge Advocate General. Probably it will be thought convenient that the evidence should be gone through on each charge separately, and that the Court should be apprised when the evidence is closed on each distinct charge.

President. I wish to know whether we have any means of preventing the partial publication in newspapers of any part of the evidence on the part of the prosecution as well as on the part of the defendant. Where a chain of evidence has been produced against an officer, before he has been put upon his defence to refute it, we know it must make an injurious impression upon the mind of the public. Every one will agree with me it would be very desirable (if we could possibly) to prevent this. I know it has been done. I do not know the means by which it has been attempted, but I submit that consideration to your better judgment.

Judge Advocate General. The only mode I believe in which it has ever been done, or in which it was necessary to do it, was by expressing the wish of the Court that it should be prevented. I remember the same feeling in the mind of the Court on a very long proceeding for the trial of Colonel Johnson: there the wish was expressed by the Court, and I found that in recommending it I was only pursuing the course which had been laid down by my predecessors. Every body must see how extremely important it is to the final attainment of justice, and how reasonable it is for all parties that the mind of the public should not be dragged backwards and forwards by any partial statement of the proceedings on particular days; and I feel persuaded that the expression of this wish on the part of the Court will be attended to as it always has been.

President. I trust the intimation will be sufficient.

Judge Advocate General. Probably the first averment in this charge will be acquiesced in, that on the 10th of January, 1814, the regiment was on duty foraging in the valley of Macoy?

Colonel Quintin. Certainly.

Judge Advocate General. And that Colonel Quintin had the command of the regiment on that day?

Colonel Quintin. Yes.

Judge Advocate General. Then you will now proceed to the remaining facts comprehended in the first charge.

Brigade Major Jones sworn.
Examined by Colonel Palmer.

Were you brigade-major to the Hussar brigade commanded by Lord Edward Somerset, with the army under the Duke of Wellington on the 9th of January, 1814?—I was.

Be pleased to produce the original entry of the order issued on the 9th of January, directing the Hussars to forage in the valley of Macoy the next day, the 10th.

The witness produced the order, which was read, as follows:—

The 7th Hussars will forage according to the above arrangement in the infantry cantonment in their neighbourhood.

The 15th Hussars will forage in the cantonment lately occupied by Colonel Keane's brigade, and in that part of the country around which the right squadron of the 15th is quartered. Major Gardiner's troop of horse-artillery will also forage in this direction: as this part of the country would be too distant for the 10th Hussars, they will forage to-morrow morning the valley of Macoy. In future when a regiment forages in the valley of Macoy, the officer commanding will send a report to General Morillo, at Louhosson, who will push forward some parties of infantry to cover the foragers, on his being requested to do so.

General Morillo has reported that some regiments in his division have formed some little depots of forage for their own use, and requested they may not be taken: they are, therefore, to be respected; and officers commanding regiments foraging in that valley will be pleased to give directions accordingly.

Was a copy of that order sent by you to Colonel Quintin, commanding the 10th Hussars, on the 9th of January?—Yes.

Judge Advocate General. Do you recollect the day on which it was sent?—Yes, on the 9th.

Colonel Palmer. If the Court think proper I will not examine Major Jones further at present, meaning to call

him again by and by; but I think it will render the case clearer to proceed now with other witnesses.

Cross-examined by Colonel Quintin.

At what time on the afternoon of the 9th did you send that order to Colonel Quintin?—I cannot exactly state the hour, but it might be about four o'clock the order was sent: it was generally about that time, depending in some measure upon circumstances, but I apprehend it might be about four o'clock, or perhaps a little later, or perhaps a little earlier.

Somewhere thereabouts?—Yes.

What was the condition of the roads in that country at the time?—Very bad.

What distance were the quarters of the 10th from you?—The quarters of the 10th at that time were at Cambo; I believe that to be somewhere about three miles.

Lieutenant-General Sir Samuel Auchmuty. About three miles from the head-quarters of the brigade from whence the order was sent?—Yes; it may not be quite so much, or it may be a little more.

Lieutenant Henry Fitzclarence sworn.
Examined by Colonel Palmer.

Did you move with the regiment the day it foraged in the valley of Macoy?—Yes, I did.

Were you on that day employed upon any particular service by Colonel Quintin?—Yes.

State what it was.—I was ordered by Colonel Quintin to look for forage in the village of Louhosson, occupied by General Morillo.

What did you do in consequence of those directions?—I proceeded to fulfil the orders, and I found forage; I was going to report the forage to Colonel Quintin, when a Spanish officer told me that belonged to them, and we could not have it, they having collected it by their own mules: the regiment passed on in front while I was having this altercation with the Spanish officer, in the direction of General Morillo's out-posts. I then proceeded to join the regiment, and found two troops and part of a third foraging close to our outposts within three or four hundred yards; I remained with them; I saw the Spanish picquet turning out suddenly about three hundred yards in the front, and rode up to ascertain the cause of their turning out: I was then met and passed by a private of the name of Haggerley, and two or three other men coming from the front at a gallop, with their car-

bines sprung; one of them exclaimed that the enemy were advancing in the valley, both cavalry and infantry; I then heard and saw several shots fired.

Judge Advocate General. Was it the advanced picquet of the Spanish you saw driven in?—Yes; I was then joined by Mr. Fitzgerald, who said he would go and form his troop, which I assisted him in doing.

You went with him?—I did; they were formed with another troop, troop G. that is, Captain Fitzclarence's, about three hundred yards in the rear of the picquet, in divisions facing the enemy; the French were then evidently advancing, the Spaniards were flying broken, and their officers were leading them, they were running away first.

Lieut. Gen. Sir Samuel Auchmuty. The Spanish picquet?—Yes, the squadron was put about and sent to the rear.

Judge Advocate General. What squadron?—I allude to the two troops G. and I.

Major-Gen. Buller. By whom were they commanded?—By Captain Stuart. Captain Fitzclarence and Lieutenant Fitzgerald then rode to rally the Spaniards;(I went with them,) which prevented the French infantry pouring a volley into our squadron; the Spanish picquet was posted behind two houses.

Lieut. Gen. Sir Samuel Auchmuty. Originally posted?—Yes, that was their post, and as long as they remained behind those houses they concealed their force in some measure, and the French did not like to come forward too fast to those houses, not knowing what the Spaniards might have behind them; but had the French seen the small force of the Spanish picquet driven from those houses, nothing could have prevented their coming and firing a volley into ours, for the ground was such that infantry could move pretty nearly as fast as cavalry: had those houses not been there, the French would have run at them with the bayonet as they latterly did. Do you put that down?

Judge Advocate General. I have put down that if the houses had not concealed them the French would have seen their strength.—But I wish it to be put down that they would have advanced but for that.

Judge Advocate General. That is matter of opinion I have no doubt well founded, but it is not evidence.—It is part of my narrative. We proceeded in rallying the

Spaniards; support had come up, the two light companies.

Judge Advocate General. The Spanish infantry?—Yes, Cacadores; the French having gained their object; that is, I suppose, matter of opinion too: having succeeded in gaining their object in taking some men and horses, they then retired.

Col. Palmer. You stated, that in your endeavour to search for forage by Colonel Quintin's order, the regiment passed you; how long after your search began had the regiment passed you?—The regiment, it must be understood, were passing me the whole time I was looking for forage; they were moving on; the fact is, we were in the village when I was sent. The order was, "Look for forage in this village," or "in these houses." I was not sent out previously to look for forage before the regiment marched; the order was, "Look for forage in these houses," or something to that effect; the moment I looked for forage, the regiment marched on; there was no halt.

Judge Advocate General. The regiment was in the village when you received the order, and it passed on while you were looking for forage?—Yes.

Col. Palmer. Where did you join the main body of the regiment after you quitted the Spanish picquet?—More than a league to the rear, in the direction of Cambo, our quarters; we were in the Pyrenees at the time, and it is difficult to state the distance; we may have been longer going than we should on other ground, because it was so much intersected.

You mean a league from where the troop had been foraging?—Yes.

Lieut. Gen. Houston. What was the apparent strength of the party brought down by the enemy on the Spanish picquet?—Four hundred men. I am not a particularly good judge of that sort of thing, but I should think about four hundred men, the cavalry did not come on in front.

Major Gen. the Hon. G. De Grey. What was done with the cavalry?—There were very few, they may have been only field-officers; there were so very few as that.

Lieut. Gen. Champagné. You stated the roads to be bad?—Yes, infantry could move pretty well as fast as cavalry, if they followed it up.

Major Gen. Rebow. Did you upon your joining your

regiment, report the circumstances of the attack upon that Spanish picquet to Colonel Quintin?—No.

President. You made no report?—No, I was junior officer to two others; I was third.

Major Gen. Rebow. Was a report made?—I do not know.

President. Who commanded the regiment when you joined it?—Colonel Quintin.

Captain J.R.L. Lloyd sworn.
Examined by Col. Palmer.

Did you move with the regiment on the day stated in the charge, that is, the 10th of January, to forage in the valley of Macoy?—I did.

At what time, and in what direction did the regiment move?—By the orders we marched at eight o'clock in the morning; the order was for us to march at eight; I suppose it might be a little after; the head-quarters marched at eight o'clock.

In what direction?—Rather to the right of the valley of Macoy.

Did the regiment change its direction afterwards?—The regiment, after ascending the mountain, changed its direction, and went down the valley of Macoy, taking a direction to the left, towards the village of Macoy, in front of the village.

Were you sent by Col. Quintin to General Morillo on this day?—I was.

For what purpose?—I was sent by Col. Quintin when the head of the regiment was in the village of Macoy to Gen. Morillo, for a party to protect the foraging of the regiment. I asked Col. Quintin what party he wished I should apply for, to which he gave me no answer; I then mentioned to him, I supposed about one or two companies; he said I might apply for what I thought would be strong enough. I then proceeded to the head-quarters of General Morillo. Not knowing exactly where General Morillo's quarters were, I was obliged to apply at different Spanish houses.

Judge Advocate General. Where were they?—I do not know the name of the village in which his quarters were, but I found him.

President. At what distance were they?—I think from where I left Col. Quintin, it was about a mile and a half. On my arrival at Gen. Morillo's I enquired for one of the staff, to whom I was taken up stairs. I mentioned the business to him in French that I came on; he

asked me whether any part of the regiment had commenced foraging; I stated nearly three troops, the third troop had not all. He went out and returned with Gen. Morillo himself, who ordered the staff-officer to make out an order for a party, but expressed great surprise that the colonel of the chasseurs, meaning the colonel of the regiment, should have commenced foraging, and foraged in the valley of Macoy without giving previous notice to him, General Morillo. He then gave me an order for a couple of companies; I understood the order was for two light companies: but I wish to mention he expressed great surprise that they should have commenced foraging, as it might have produced something unpleasant at the out-posts, or something to that effect: he then gave me a written order, which I was to carry to an officer, who I understood was colonel of the Cacadores, and he sent a person to shew me his residence. On my arrival at the quarters of the colonel of the Cacadores, I found him getting on his horse; I had a difficulty at first in explaining my message to him, but at length an officer addressed me in English, and explained to him my wish, to which he replied, the order was of no use, for in consequence of an attack on the out-posts, the light companies, which were the out-posts, were out, and he desired me to go with him. On proceeding towards the out-posts with him, which was in my road back, the only road I knew, I first met part of the 10th moving off at a quick rate; I afterwards met in the rear of them Captain Stuart, who was keeping them together, and hurrying them on; afterwards some mules, with a mule man belonging to the regiment, whom I desired to get off as quick as he could. I went on with the colonel of the Cacadores, and staid with him a few minutes, wishing to see, before I joined the regiment, whether the firing would cease, and there would be an opportunity for the regiment to forage, as well as to make some arrangement with the colonel of the Cacadores, where those parties would be. I then proceeded to the village of Macoy, (where I then was, was in front of the village of Macoy) and after making various enquiries which way the regiment had filed, I was informed by a commissary's conductor attached to the regiment, that Colonel Quintin had filed to the left of the church, and had gone up a mountain, which was in the rear of the village of Macoy; before I got half way up the hill, I overtook the

rear of the regiment, and after some difficulty, passed them, being a single file, in an excessively narrow road. I had some difficulty in getting past them. On my arrival in front of the regiment, I found Colonel Quintin there, and related what had passed between me and Gen. Morillo: he asked me whether I had seen any of the regiment; I said I had seen some of them.

Judge Advocate General. Of what regiment?—Of the 10th; I asked the colonel for orders, and after some time I got an order from him to proceed back to the officer commanding the out-posts, and tell him there was no necessity for the party that day.

Who was the officer commanding the out-posts?—I understood he was colonel of the Cacadores, the officer I have spoken of; I went back there, and was some time before I saw him; at length I met with him inspecting the out-posts, the firing at that time had nearly ceased.

Col. Palmer. You have stated that Colonel Quintin asked whether you had seen the regiment; do you mean in that answer, the troops of the 10th, that were foraging in the bottom?—Yes, I meant to be so understood. Colonel Quintin was at the head of the other party at that time.

Did Colonel Quintin make any observation upon your report of your conversation with General Morillo?—None.

Did your troop obtain any forage on that day?—My troop did not.

Where was your troop?—It was one of those that went up the hill.

Judge Advocate General. Your troop did not forage on that day?—My troop went to forage, but was one of those that filed up the hill.

Your troop was intended to have foraged that day, but did not forage in consequence of the circumstances that induced to its filing up the hill?—Two of the troops on the left commenced foraging, but mine did not; it was on the right, and filed up the hill.

Col. Palmer. Though your troop did not procure forage that day, was not it the object of the movement, that the whole of the regiment should forage on that day?—I certainly thought so, a brigade order being given that the 10th regiment should go out to forage on that day.

How many days forage were the troops supposed to procure each time they went out for the purpose?—By the brigade orders, and the corn sack which we always took out with us, we were supposed to procure three days forage; we generally calculated a ration from fourteen to fifteen pounds, but in consequence of our going out oftener, we frequently gave them twenty.

How long was your troop from the time it quitted its quarters in the morning, till its return at night?—We quitted our quarters at a quarter after eight o'clock in the morning, and I think the troops were in quarters about five in the afternoon; my troop was; we cantoned nearer the place of foraging than most of the regiment, about three quarters of a mile.

Cross-examined by Colonel Quintin.

What was the distance between the head-quarters of the regiment and the valley of Macoy?—The head-quarters of the regiment I should think were about six English miles, or six English miles and a half, rather better. The road is so excessively intricate it appeared much longer, being up and down hill, that I cannot speak more exactly to it.

Describe the nature of the ground and the condition of the roads.—It was up and down hill; the road was generally slippery and bad.

What part of the regiment was with Colonel Quintin when you overtook him, and what officer?—Captain Harding's troop, my own troop; there were three troops, and I believe a few men of a fourth troop; but I do not know at this moment which troop it was. The regiment has been very often changed since, we have changed the squadrons of the regiment, and I cannot speak exactly.

What officers were with them?—I saw Major Howard, Lieutenant Eversfield was with my troop, Colonel Palmer and Captain Harding. There may have been several others with the regiment as it filed up the hill, for I got off to the side of the road, so as to get on as quick as I could to Colonel Quintin. Those were the only officers I saw to the best of my knowledge.

Are you certain Major Howard was with Colonel Quintin at the time you first spoke to him?—When I spoke to Colonel Quintin at first he was not, but the regiment came up the hill and halted and dismounted, and Major Howard was there at that time; they extended a great

length down the hill; they were in single file; it was woody along part of the road, and the men were some of them a great way down.

You stated that your troop did not procure any forage; do you know what forage had been procured by the other troops?—Part of the men I saw coming off with Captain Stuart had hay; what troop they were I do not know. Just before I came up to Colonel Quintin I saw part of a troop, I think Captain Harding's, with a little straw if I mistake not; but I was so anxious to get up to make my communication that I did not remark more particularly.

Major-General Dilkes. Did you state that you found Colonel Quintin in the village where you left him?—No; I did not see Colonel Quintin after I had parted with him on receiving my orders till I found him at the top of the hill.

Re-examined by Colonel Palmer.

What distance from the rear of the troop, as you passed them in single file, did you find Colonel Quintin?—They were not only in single file, but there were frequently gaps in passing through the woods; I think it might be a mile and a quarter; I had great difficulty in passing with my horse.

Captain S. H. Stuart sworn.
Examined by Colonel Palmer.

Were you detached to forage with your troop in the valley of Macoy, on the 10th of January, 1814?—Yes.

At the time you advanced to forage was any situation or place of rendezvous pointed out to you to retreat to, in the event of your being attacked?—No.

From the period you began to forage to the period of your retreating with your troop, did you receive any orders, or any communication from Colonel Quintin?—None.

State to the Court the circumstances which occurred to you in your endeavour to forage, from the period of your being detached till the time your troop retreated before the enemy.—After I left the regiment, having previously sent a non-commissioned officer to see whether he could find forage, on his return he told me he had a little to the front of the Spanish picquet, upon which I marched part of my troop in that direction, taking the remainder with me to the house where he informed me the forage was.

As soon as I had procured forage for them, I sent for the remainder of the troop, and completed their foraging, with the exception of my own mules and one troop mule. At that time the vidette I had placed in my front, came galloping in, and informed me that the enemy were advancing with cavalry and infantry. I went up to see, and a little to my left saw some French cavalry advancing on a narrow road towards the Spanish picquet. I then rode back, and formed the troop a short distance in the rear of the picquet. I had scarcely done that when the picquet were driven back in great confusion. Captain Fitzclarence's troop, which had been foraging a little to the right of me, then came out of the valley; he asked me what officers were there, and whether I had received any orders from Colonel Quintin or Major Howard. I answered no, that I had not seen either of them since I came to forage. He then said he thought I had better retire to the village of Macoy; but as I did not know that road, I thought it better to retire by the road we came, through the Spanish cantonments. I then threw out skirmishers to cover our retreat, and remained on that ground as long as I well could without being supported by infantry, the ground being such as not to enable us to act with cavalry. Captain Fitzclarence then said I will go and rally in support of the Spanish picquet; two or three companies of the Spaniards advanced with our skirmishers, and drove the enemy back.

Major-General Reynardson. You were the senior officer there?—Yes, I was; not receiving any orders I then retired through the Spanish cantonments.

Do you know the fact of any of the men and the horses of those that were foraging being taken?—After I arrived at my quarters, I remember hearing of some of Captain Gordon's troop being taken; I do not know it of my own knowledge.

When was Colonel Quintin informed by you for the first time that your troop was returned to quarters?—I went home a different road from the regiment, and on my arrival at the cantonments of the regiment, which were at Cambo, I remained there a short time; soon after he arrived he sent for me.

Judge Advocate General. When was this?—On the same day.

President. At what time, in the evening or the afternoon?—Yes, in the afternoon he sent for me; and said he

had heard I had lost part of my troop; I said, I had lost my own mules and one man, that was all.

Col. Palmer. Had you been attacked by cavalry only, even superior to your troop, should you have engaged them under the idea of being supported by Colonel Quintin?—Certainly I should.

What would have been the situation of yours and Captain Fitzclarence's troop, had not the Spanish troop been rallied and afforded time for the support to come up?—They would have been taken; the ground was such they could not act against infantry.

Cross-examined by Colonel Quintin.

At what distance were you at the time you have mentioned from Colonel Quintin?—I do not know what became of Colonel Quintin, whether he remained where I left him; but I should suppose from where I left him about five or six hundred yards.

Judge Advocate General. Do you mean from the house where you were informed the forage was?—From where the regiment was dismounted.

What other troops took the same direction with yours when you left the regiment to forage?—I do not recollect any others taking the same direction as I did.

President. Was Colonel Quintin still there where you left him?—That I do not know.

Major General Buller. Did you send an immediate report to Colonel Quintin of your being apprised of the advance of the enemy?—Yes, I sent a dragoon; but I received no answer.

President. Do you know whether Colonel Quintin received your advice?—No, I do not.

Major General the Hon. G. De Grey. What was the strength of the French cavalry which advanced on the Spanish picquet?—I think not above a troop, merely some skirmishers; but in the rear of those there were more in the line; I could not see their numbers.

Was Colonel Quintin so situated with respect to the regiment, that he could observe how you were circumstanced when the French attacked?

Judge Advocate General. The witness has already stated that he does not know whether Colonel Quintin remained where he had left him; but it might be put in this way: Was the place where you left Colonel Quintin so situated as to enable him to observe your situation when

the French attacked?—No; I do not think he could have observed how we were circumstanced, supposing him to have remained in the place where I left him.

Major General Rebow. Did you ascertain afterwards that your report reached Colonel Quintin?—No, I did not.

Lieut. Gen. Sir Sam. Auchmuty. Did you know the man whom you sent? were you acquainted with him?—I do not recollect who he was; there were men of other troops as well as my own there. I cannot clearly recollect who the man was.

President. You sent the first man you met with?—Yes, I did.

Captain George Fitzclarence sworn.
Examined by Colonel Palmer.

Were you detached to forage with your troop in the valley of Macoy on the 10th of January?—I was.

At the time you advanced to forage, was any situation or place of rendezvous pointed out for you to retire to in the event of your being attacked?—None.

From the period you began to forage to the period of your retreating with your troop, did you receive any orders or communication from Colonel Quintin?—None.

State to the Court the circumstances which occurred to you in your endeavours to forage, from the period of your being detached, to the time your troop retreated from before the enemy.—The regiment remained dismounted to the right in the front of the village of Macoy; the serjeants of each troop were sent to search for forage in the neighbouring houses. Upon the serjeants returning I mounted the troop, and proceeded to the house in which the serjeants discovered forage, and sent my lieutenant, Mr. Wyndham, to point out the house to Major Howard. I then placed videttes along the front, and commenced foraging. After some time had elapsed I went to the advanced posts to the videttes again, and found the enemy advancing rather towards my left. I then sent Mr. Wyndham (who returned after an ineffectual attempt to find Major Howard) to know if the officer of the Spanish picquet on my left would cover me while I continued foraging; the Spanish officer returned for answer that his orders were to retire. This being commenced, in about four or five minutes afterwards I withdrew my troop to where I conceived the regiment to be, which I did not find, but found Captain Stuart's troop, on the ground, or near the ground, where I had

left the regiment. I formed my own troop in the left flank of Capt. Stuart's troop, we remained there some time without orders. At the latter part the enemy fired into us continually. Capt. Stuart, who was then the commanding officer, formed the squadron at the rear, and finding the enemy advancing, I retired to see what I could do with the Spaniards; we rallied them and the troops got safe off. We remained with the Spaniards till the French were repulsed, and then proceeded in the direction home. I found Colonel Quintin with the remainder of the regiment with Major Howard at the top of the hill, about two miles off; he enquired with much anxiety where my troop was; I answered that I had seen it return, and had no doubt it was safe.

Did you see Major Howard, or had you any communication from him during the time you advanced to forage, or till your troop had retreated?—I received no orders from him during that period. I saw a number of horsemen, and he might be amongst them, but I cannot say that I discerned him; I had no communication with him.

How far was the spot where you found Colonel Quintin from the place where your troop had been foraging?—About two miles.

How long did you remain under fire?—About ten minutes.

Had you been attacked by cavalry only even superior to your troop, should you have engaged them under the idea of being supported by Colonel Quintin?—Certainly.

What would have been the state of your and Captain Stuart's troop, had not the Spanish picquet been rallied and afforded time for the support to come up?—They might have lost men.

Cross-examined by Colonel Quintin.

Why did you send to Major Howard?—Because he commanded the squadron; I sent to him as the commanding officer of the squadron.

Was the other troop of Major Howard's squadron foraging near yours?—No.

Did you lose any men or horses from the fire of the enemy which you have described?—None; the shot lodged in the men's nets.

Was the nature of the ground such as to admit of any attack of cavalry?—In places it might; but it was very much intersected.

Major Gen. the Hon. T. Mahon. With respect to the

hill on which you found Colonel Quintin, did that command a view of the operations of the squadron in the valley?—There was so much wood that I cannot say; it might possibly, but I cannot speak with any certainty to that.

President. Was it within hearing of the fire?—Certainly.

Major Gen. the Hon. G. De Grey. What orders did you receive when detached to go for forage?—Nothing more than when my serjeant returned as I have mentioned I proceeded to forage.

Nothing more than the general order to forage?—No.

Was there any favourable position on which the regiment could have been drawn up to support the foraging squadron?—Certainly not the whole regiment; but it might have been supported by a troop, and I expected it; there was a piece of ground that might have done very well for the movement; there was room for a troop.

President. You stated that you received no orders from Colonel Quintin or Major Howard as to a place of rendezvous in case of an attack. Was it the custom to send out a foraging party in front of the enemy without making such arrangement?—In one instance I recollect there being, that was the first day we foraged; but in this instance there certainly was none.

Was it the custom for the foraging party to receive those directions, that in case of attack they should have some place of rendezvous to retire to?—I think in general not. I always thought it a want of arrangement. The first day I foraged there were orders for a rendezvous; but in general there was a want of that arrangement. After this I was supplied with videttes. There were arrangements made after this.

Captain Harding sworn.
Examined by Colonel Palmer.

Did you move with the regiment when it foraged in the valley of Macoy on the 10th of January?—I did.

Relate to the Court the circumstances which to your knowledge took place from the time the troops had been detached to forage till they retired?—After the troops had been detached to forage the remainder of the regiment, of which mine formed a part, proceeded on, and after some delay arrived at a church situate near the village of Macoy where we halted; a very short time afterwards a troop serjeant major caused and reported to Colonel Quintin

that he had discovered some forage in a house about a quarter of a mile or thereabouts to our left, and a little in advance. Upon some question he observed that the road to this was bad. Colonel Quintin ordered me to take my troop there to forage; but before I proceeded to execute his orders I took the liberty of saying, from what the serjeant-major had said about the road, and my own observation as to the situation of the house, that if the enemy should attack me while in the act of foraging, of which I thought there was a probability, I should find it very difficult to bring off my troop without its suffering severely. At this time the firing from the enemy approached nearer, and Colonel Quintin countermanded my going to forage, and proceeded to file the regiment to the rear up the hill, and on arriving at the top of the hill, we halted near a picquet of our own.

How long did Colonel Quintin remain on the spot after the firing commenced?—After the firing commenced, that is, after it approached near, and attracted our notice, as I have stated, to which I allude, he moved away immediately.

After you first heard firing?—I had heard some shots fired before we got to the village; some few shots, but that was at some distance off.

Did Colonel Quintin, when the firing began, either go himself, or send any one to that part of the regiment which had been detached to forage?—Not to my knowledge.

Was it evident to you that the firing was in the direction where a part of the regiment had been detached to forage?—It certainly struck me so.

At what distance do you suppose the other troops were, those who were foraging?—I should suppose half a mile, or rather more, from the church.

What was the sort of firing?—An irregular fire.

Lieutenant General Sir Samuel Auchmuty. Was it a heavy kind of fire, such as you would suppose to proceed from a large body, or merely straggling shots?—It was more than straggling shots, but not a considerable fire; it was an irregular fire.

Colonel Palmer. Was it a quick fire, rapid in succession?—Yes, it was.

Where did Colonel Quintin place himself in filing the regiment to the rear up the hill?—He left me, and I should suppose he put himself at the head, that is, leading to the rear, but I cannot positively say.

Were you in the rear of the regiment when it filed up the hill?—I was.

Judge Advocate General. The other answer then is, that Colonel Quintin left you in the rear of the regiment?—The regiment was not all in regular bodies, the situation was very much confined; he left me, and went towards the rear.

Colonel Palmer. Towards the rear, which then became the front?—Yes.

What forage did your troop obtain this day?—When we had got some little way up the hill my troop got a mixture of forage, the principal part of which was straw; sufficient for about thirty horses for that day.

Serjeant Major Samuel Wells sworn.
Examined by Col. Palmer.

Did you act as adjutant with the regiment at the period of its foraging in the valley of Macoy, on the 10th of January?—Yes.

Were any men and horses lost on that day?—There were.

What number?—Five men and four horses.

Brigade Major Jones called in again.
Examined by Col. Palmer.

Were you near Macoy at the time part of the regiment was foraging in the valley, on the 10th of January?—Yes.

How near?—I was passing in front of the posts fronting the Spanish and English posts at the time a serjeant of the regiment came up, and said that two or three troops of the 10th had got orders for foraging in the valley.

Do you know the fact that the foraging parties of the regiment were that day attacked in the valley?—Yes, the French picquets descended from the hill opposite, and I heard the firing at a short distance from me, after the troops of the 10th had moved into the valley of Macoy; I immediately rode off to the nearest infantry post, where I met Colonel Kean, who moved up some detachments of infantry, in order to support the foragers; I also saw the Spanish picquet retiring at the same time, shortly after the firing commenced.

Was any report made to you of the loss the regiment sustained that day in men and horses?—A report was sent in on the following morning to me as brigade-major,

and to the best of my knowledge a report was made by Colonel Quintin to Lord Edward Somerset, the officer commanding the brigade.

Was any report made or sent to you by the officer of the picquet at Macoy church?—Yes, it was; it was sent by the serjeant of the picquet, a pencil memorandum, that the 10th were attacked while foraging in the valley below the church; I sent word at the same time that Colonel Kean was moving up with part of his brigade to support the attack.

Did you see any thing of the regiment under Colonel Quintin?—On my return to the church of Macoy I enquired of the serjeant of the picquet, which way the 10th had gone; he pointed to the road up the hill, and said Colonel Quintin had gone with two squadrons of the regiment in that direction. On my asking the serjeant if the whole of the 10th had escaped from the valley, he said he believed not; but that Colonel Quintin had said, in passing him, that he feared he had lost some men and horses, of those in the valley.

Judge Advocate General. I should doubt whether this can be evidence: the report that Colonel Quintin had passed up the hill may be received; but as to this man having reported a conversation of Colonel Quintin with himself, the man must speak to that for himself.

Col. Palmer. When did you see Colonel Quintin?—It may be an hour, or two hours afterwards, upon the heights.

Did you make any observation to Colonel Quintin upon these circumstances?—I did; I mentioned to him that a serjeant had stated that he had lost some men and horses in the valley, and I went up to him to ascertain whether there was a loss sustained or not.

Judge Advocate General. Here the Court sees it becomes perfectly regular: this is conversation with Colonel Quintin himself.

I think I said to him I understood he had lost part of two troops; Colonel Quintin said, Oh no, he believed he had lost a few men and horses, but not to any great extent; that the troops had escaped from the valley.

Were you aware, at the time, that if the foraging parties were attacked, covering parties had not been stationed to support them?—No, I considered that a covering party had been stationed, because there was an order to apply to General Morillo for a detachment of infantry. I supposed they had taken post accordingly.

Would the loss of men and horses have been sustained, had the proper and timely arrangements been made to place the necessary covering parties?—Really that it is almost impossible for me to say: had the precaution been taken, which I afterwards learnt had not, of posting a chain to cover the foragers, most likely that would not have been the consequence, that might not have been the case; possibly they might have driven away the posting chain, and attacked the foraging parties; but it is probable they would not have made the attack; it was only the picquets which came down.

Judge Advocate General. Do you know the state of the ground?—Yes, I have a sketch of the ground; I do not know the number of men, but it appeared to me to be only the picquets; they might have supports from the other side of the hill; it was a country very much intersected; you could not see ten yards before you hardly; but if a chain had been provided, I think they most probably would not have been attacked.

Lieut. Gen. Sir Samuel Auchmuty. Do you mean a chain of infantry?—Yes, cavalry could not act in that country.

Judge Advocate General—Then the answer amounts to this: that if a chain of infantry had been placed, it would have saved them from an attack like that made; but whether they could have brought more force, the witness of course does not know: you seem to have all which you need.

Lieutenant General Houston. It is the opinion of some of the members near me, that the question ought to be inserted, and the answer.

Judge Advocate General. There can be no objection to putting the question if it is thought necessary; but the question appears to answer itself: I should think the only answer that could be made, would be, that if adequate covering parties had been placed, that attack would not have been made. The Court have heard the nature of the attack: if the question is, whether the French were in strength to make any attack if there were covering parties, that is quite another question; but it now appears only to be asking, whether the offensive party must not be in proportion to the defensive? I will put the question: Do you apprehend the loss of men and horses would have been sustained, had the proper and timely arrangements been made to place the necessary

covering parties?—I can only speak as to my own opinion on the thing; and say, if a covering chain had been established, it would have prevented a sudden surprize; there is no doubt of that; and probably have saved the loss of men and horses.

Was not the ground of that description that 100 men properly posted would have stopped a large body of infantry?—Yes, I think it was; I speak of infantry; no cavalry could act with any effect at all on that ground.

Do you conceive that the circumstance of the troops being without the support of infantry induced the attack that was made?—I think very probably seeing the defenceless state in which the foragers were straggling about in different directions to obtain their forage, that that might induce the enemy to come down; but I cannot say positively how that fact might be. Shortly after the firing commenced a fog came on which precluded the means of seeing the enemy; I descended into the valley, and close to our party, but could not see any thing in consequence of the fog.

Do you know whether the Spaniards sustained any and what loss?—I do not know indeed; but I have heard the loss they sustained was very trifling.

Did you in consequence of the loss sustained by the 10th on this day, write a letter of instructions to Colonel Quintin by order of Lord Edward Somerset?—I have written at different times several letters to Colonel Quintin.

Did you write one in consequence of those circumstances?—Yes, I did, about four or five days afterwards.

Have you the original entry of that letter?—I had two letter books, one of them was lost, the other I have, in which there are several letters to different officers entered.

Have you in your letter-book the letter to which this question refers?—I am pretty sure I have; if it is the letter that I think is referred to, it is dated the 15th or 16th of January; this is the letter, (*producing it*).

Judge Advocate General. If the letter is admitted by Colonel Quintin, it may be read at once from that; if not, I suppose the original will be called for.

The letter was shown to Colonel Quintin.

Colonel Quintin. I have no recollection at all of the letter.

Judge Advocate General. It appears that the original

letter is not forthcoming, and therefore there must be proof of the writing the letter; the witness must speak to how he sent the letter to Colonel Quintin, and whether he can swear to this being a copy. How did you convey this letter to Colonel Quintin?—In the ordinary way, by an orderly.

Had you any information that the letter was received?—I must of course at the time, because I had receipts for all letters and orders; but I have not kept it, not expecting this to come forward.

Can you charge your memory with having had a receipt for that?—I am positive I sent the letter off by order of Lord Edward Somerset; that I wrote the letter with my own hand, and that I wrote this in the book with my own hand; I copied it at the same time.

Have you any reason to doubt its being received?—No, certainly, none in the world; all official letters of that description I used to receive receipts for, with the time of their being received.

Do you remember whether you received any receipt for this?—I do not.

You have no recollection that you did not?—Not the least; I have no doubt that I did; the receipts used generally to be given by the adjutant of the regiment.

Judge Advocate General. My opinion is, that this statement will make the letter evidence; but if Colonel Quintin wishes to urge upon the Court that it is not, now is the time for him to state it.

The letter was read as follows:

Oncourage, Sunday night, 16th January, 1814.

SIR,

In consequence of the repeated affairs with the enemy, which have occurred when the regiments have been out foraging, and in which we have generally suffered some loss, I am directed by my Lord Edward Somerset to refer you to the brigade orders which have been given respecting the precautions which must always be taken before the foraging commences, by making application to the officer commanding the infantry in the neighbourhood in which the troops are directed to forage, for parties to form a foraging chain to protect the men during that operation.

I have also the major-general's orders to request you

will not forage in future until after you have sent out officers to ascertain the houses in which the forage is to be obtained, and that you have received their reports thereupon. This you will be pleased to do to-morrow, and every succeeding day when your regiment is to forage; in order, that with the precautions directed above, you may guard against surprize during the time the troops are employed on this duty.

I am desired to add, that the General wishes you to send out proper people to find the forage the day before the foraging is to take place; and that you will, in the event of its being in the immediate vicinity of the enemy, report to the major-general the place you intend to forage, in order that you may receive his directions thereon.

I have the honor to be, Sir,

To Lieut. Col. Quintin, Your very obedient servant,
Commanding 10th Hussars, CHARLES JONES, M. B.
Cambo.

Cross-examined by Colonel Quintin.

Did the cavalry forage in the valley of Macoy after the 10th of January?—Upon my word I do not recollect; I could easily ascertain that by referring to a memorandum book I have kept; but that I have not by me.

Re-examined by Colonel Palmer.

Do you recollect Colonel Palmer subsequently applying to Lord Edward Somerset to forage his own squadron in the valley separately?—Yes, I do remember Colonel Palmer making the application; and I remember Lord Edward Somerset telling me that Colonel Palmer had made the application.

Adjourned to to-morrow morning, ten o'clock.

SECOND DAY.

Tuesday, October 18, 1814.

Serjeant Samuel Marchant sworn.

Examined by Colonel Palmer.

Do you recollect on the 10th of January, after some of the troops had been sent to forage, the remainder of the regiment being halted in front of the church at Macoy, close to where the picquet was stationed?—Yes, I was there at the time with the regiment; the picquets were close in front of us, and within a quarter of a mile.

Did you hear any firing?—Yes.

When did it begin?—A few shots were fired before we came to the church as we came up to the lane.

President. Were you within the range of the shot?—They might have hit us if they had fired that way, or near about it.

Colonel Palmer. Did you observe the French come down the opposite hill to attack the troops that were foraging?—I saw them on the hill.

Judge Advocate General. Coming down, or stationary?—After the firing commenced a little while, I saw the enemy come, and the Spanish picquet, and they were firing away very sharp indeed; our own men were riding about.

Colonel Palmer. Were you near Colonel Quintin at the time?—I saw him, he passed me once or twice, walking his horse backwards and forwards, and looking towards the enemy.

Did you see our foragers engaged with the enemy?—I saw part of our men, as well as the Spaniards, and the enemy riding briskly backwards and forwards.

What was the description of the firing?—A firing of small shot skirmishing, I did not hear any volley.

Was it quick firing?—Yes, sharp firing, pop-pop.

What became of the regiment after that?—Colonel Quintin ordered them to file to the rear up the hill, and the foragers went on.

Major General Buller. What do you mean by the foragers going on?—When we filled to the rear, we were ordered to forage a house.

Colonel Palmer. What he refers to I apprehend is that which was stated as to Captain Harding's troop, that they were ordered to forage as they went up the hill.—Yes, that is what I mean; we foraged as we went on.

Major General Buller. During this period one squadron was in front skirmishing, which did not retreat with the body up the hill?

Judge Advocate General. No, those he has left where they were in the valley as far as his evidence goes.

Colonel Palmer. It was stated that that foraging which went on, merely related to a part of Captain Harding's troop as they went up the hill.

President. Yes, another part of the regiment, which was Captain Harding's troop, foraged as they went up the hill; that is understood.

Major General Buller. At the time the order was given for the regiment to file to the rear, was any part of the regiment in front skirmishing with the enemy?—Those that were foraging in front; there was no other party that I know of sent from ours.

Judge Advocate General. The question is, whether they were skirmishing in front at the time that the order was given for the regiment to file to the rear?—They were

Major General Buller. The body that were originally sent to forage were engaged with the enemy, when the main body of the regiment were ordered to file in the rear?

Yes, they were.

Serjeant William Hodges sworn.
Examined by Colonel Palmer.

Do you recollect on the 10th of January after some of the troops had been sent to forage, that the remainder

of the regiment was halted in front of the church at Macoy, close to where the picquet was stationed?—Yes.

Do you remember when the firing began?—Yes.

When?—During the time the troops were foraging at the top of the hill, and we were lying in the bottom.

Judge Advocate General. You stated, in answer to the first question, that you remember that the remainder of the regiment were halted close to the church, at the time that a part were foraging in the valley.—On the mountain on the hill. If any of the regiment were foraging in the bottom, I know nothing about that.

Were you with the part of the regiment that were halted near the church?—Yes.

During that time was there a part of the regiment foraging on the hill?—Yes, there was.

You knew of none foraging in the valley?—None.

Colonel Palmer. Do you remember the troops before they came to Macoy being sent off to forage?—Yes, I remember troops being sent away from the left of the regiment.

They were sent on to forage?—Yes.

Do you remember the rest of the regiment passing on to Macoy?—Yes, in single file down past the church, and further than the church a good deal.

Judge Advocate General. The church of Macoy, I conceive, was lower than the hill, but higher than the valley.

Colonel Palmer. The fact is, that the country is so uneven that where they were foraging, there were hills; it was so very much intersected that he might conceive it to be a hill in front of him.

Judge Advocate General. All we want is to identify this body of foragers, for some of them describe them to be in the valley, and he describes them to be on the hill; what troops were foraging?—Captain Fitzclarence's troop.

Lieutenant General Houston. We never ascertained before where Captain Fitzclarence's troop were; they were to the left of the others.

Lieutenant General Sir Samuel Auchmuty. They were formed to the left.

Colonel Palmer. Did you observe the French come down the opposite hill to attack the troops that were foraging?—Yes.

Where were those troops at that time?—The troops

were more in front on our right as we were in the valley at a large gentleman's house, on our right on the hill as we marched along the valley.

Did you see our foragers engaged with the enemy?—Why no, I did not.

What was the distance from where you were to where the troops were foraging?—As near as I can speak, about a quarter of a mile.

President. Could you see the foraging party?—Yes.

Colonel Palmer. Were you near Colonel Quintin at the time?—At the time the files were put about, I was close to the Colonel; he placed himself in the front of the regiment when it filed.

Judge Advocate General. An order had been given to file in the rear?—Yes, there was.

President. The Colonel led the column of file?—Yes, and I was close in his rear.

Colonel Palmer. You mean to say that Colonel Quintin led the column of files up the hill?—Yes, he did.

President. How far did the regiment retreat before it formed?—After we filed and marched some distance, I fell out with a part of my troop to forage at a house going up the hill.

How far did the regiment march before it formed?—I believe about two miles.

From the spot where the regiment formed, after it filed to the rear, could you from that spot see the foraging party?—No.

Were you with the regiment when the foraging party rejoined it?—I do not recollect.

Do you know how long it was after the regiment formed before the foraging party joined?—I do not.

Major General Buller. I will put the same question to this man I did to the last. When you filed to the rear, were the foragers left in front?—I am not able to say; I did not see them.

Colonel Palmer. You state that you saw the party that were foraging on the right?—Yes.

You moved off immediately to the rear?—Yes.

If you moved off to the rear, what became of those you had seen to the right foraging?—I am not able to say; we left them there when we filed; when they joined I cannot say, or whether they moved off directly.

Judge Advocate General. You left them there, but how long they staid there you do not know?—Just so.

Serjeant William Farr, of the 15th Regiment of Hussars, sworn.

Examined by Colonel Palmer.

Were you serjeant of the picquet, at the church of Macoy, on the 10th of January?—Yes, I was.

Do you remember the troops of the 10th retreating past your picquet?—Yes, I do.

Did you see Colonel Quintin?—Yes, I did.

Where?—At the head of the troops.

You saw Colonel Quintin at the head of the troops at the time they were retreating by your picquet?—Yes.

Did you hear him make any observation?—Yes, I did.

What?—That he was doubtful of the squadron in the valley.

To whom did he speak?—I was doubtful whom he spoke to; it was an officer, I believe; he said he was doubtful of the squadron in the valley, and expressed a fear of some of them being taken.

Did you report what you heard him say to Brigade Major Jones?—Yes, I did.

Major General Reynardson. Do you remember the foragers being attacked?—I remember the Spaniards being attacked; I did not see the foragers attacked.

How long did the main body of the 10th regiment remain at Macoy after this attack?—A very few minutes, not ten minutes, I should think.

How far were you from them when they filed up the hill?—I was close by the church; the flank of the 10th passed my left flank as I was formed by the wall.

Brigade Major Jones was called, but it appeared that he was not yet in attendance.

Colonel Palmer. I have no further evidence on this charge, but that of Brigade Major Jones; that will be a single question.

Judge-Advocate General. Then perhaps the most convenient way will be to proceed to the next charge, and when Brigade Major Jones comes, his evidence may be attached to the former.

The Second Charge was read.

Colonel Palmer. General Vyse. Before I enter upon this charge, I should wish, with the permission of the Court, to state a circumstance I conceive of great importance on the part of the prosecution, which relates to the evidence of the Duc de Guiche, who was the senior captain of the regiment; he has now quitted it, and is in France. On being appointed the prosecutor, I wrote to him to press him to come over, saying his presence was necessary. I received an answer from him, to say that particular business prevented him; in fact, that it was almost impossible for him to come over, but that having been applied to by Colonel Quintin, who had put questions to him upon the subject, he had answered his questions, and he sent me a copy of them, and that he thought that would probably be admitted. I called immediately at the Judge Advocate's Office; I did not see Mr. Sutton, but Mr. Oldham informed me the evidence could not be received. I immediately wrote to the Duc de Guiche, and was in hopes the Court would not be appointed before he came; but the time having been fixed, I did not deem it proper to make any application, thinking it important it should not be delayed; but wrote immediately a very pressing letter to the Duke, begging he would come over; and that if he could not come to the day, he would mention when he could appear; so that if it was not at too distant a period, the Court might be applied to to await his arrival. I have had a letter from him, in which he has answered very fully the questions I put to him; and he states in that letter, that if that statement shall not be received in evidence, he will come over himself by the 20th of November. Mr. Sutton informs me, that if Colonel Quintin will admit it, the Court might think proper to allow this to be entered upon the reply; and if the Court will admit that, I shall be perfectly satisfied: if not, important as I conceive his written testimony to be, rather than delay the Court, I will go on without it. At the same time, Colonel Quintin having written to the Duc de Guiche for his answers to certain questions, with the intention, I suppose, of making use of them; I hope he will permit me to make use of them in my reply: of course they cannot be evidence, but I wish to introduce them, as being very necessary to the justification of my brother officers, in bringing forward this charge.

President. By the reply, I suppose you mean the Judge Advocate's address. The nature of a reply is, that the Judge Advocate replies to the prisoner's defence, and the prisoner may make any rejoinder on the Judge Advocate, if he feels it to be useful to him.

Judge Advocate General. It will be seen by the articles of war, that the Judge Advocate General is made the prosecutor for the Crown on these occasions: it will be obvious to every military man, that there can be no duty so inconvenient to the Judge Advocate General, as the duty of making a reply. He is to report to the Crown; it is therefore desirable that he should not become a party, by advocating any particular side; otherwise there would be very great doubt as to the correctness of the report he should make: with that view, it has always been the practice, since I have been in office, and with my predecessors (unless there was some reason why it could not be so managed), that somebody should be appointed prosecutor. The prosecutor opens his case, and calls his witnesses; then the prisoner enters upon his case; and then the prosecutor has a reply upon the whole. The prisoner has been permitted sometimes to address the Court afterwards, but that is not the regular course, nor consistent with the ordinary rules of the Court. Under these circumstances, unquestionably, Colonel Palmer, who opened the prosecution, would have his reply.

With respect to the attendance of the Duc de Guiche, as soon as I received this warrant, I wrote to Colonel Palmer, to know what witnesses he wished to have summoned; he mentioned among the rest the Duc de Guiche, who was in France: it was quite clear it was imperative upon me to summon every person whose attendance was required; it was equally clear that my summons, officially, could not reach him; therefore, all I could do was to represent the wish that he should attend the Court if possible: the extreme importance of bringing this trial on as quickly as possible was also represented to me. It was originally intended the trial should commence on the 10th of this month; but in consequence of some difficulties which arose, affecting not only the witnesses, but the members, many of them being far from town, it was found necessary to postpone it to the 17th. Colonel Palmer again represented to my office the wish to have the Duc de Guiche as a witness, and I wrote a letter again, in consequence of his application, pressing it

strongly upon him; and in answer to that I received this letter, dated from the Thuilleries. "In answer to your letter of the 3d of October, I beg to acquaint you, that the earliest time it will be in my power to go to England will be the latter end of the next month; but should you think it desirable to have my opinion upon any of the charges before that period, I will answer by return of post to any question the Court might request."

With respect to the delay of the court-martial, it was possible the Duc de Guiche might be in England at the time fixed; but I do not know of any instance of the Court being adjourned to an indefinite period, for the attendance of a witness, whose attendance they could not compel. Another circumstance is, that it is a witness on the part of the prosecution; and that this prosecution, as all military prosecutions are, is in the name of the Crown; and I take it not only on precedent, but in common justice, a greater latitude has always been given in the procuring witnesses material for the defence, than those thought material for the prosecution.

Having stated to the Court all I know as to the absence of the Duc de Guiche, I will now trouble them with one word as to the proposition Colonel Palmer has made. I stated to Colonel Palmer (in which he acquiesced) that it was impossible that any thing stated in the way of observation, or in the way of answers to questions put by him to the Duc de Guiche could be evidence, because the very essence of evidence is, that it should be on oath, and liable to cross-examination: it is quite clear these answers would be neither the one nor the other. Then the question arises, whether by any mode, consistent with the usual forms of the Court, matter can be attached to the proceedings, which is not, and cannot be considered as evidence. Now it is clear that the speech in the opening, and the speech in reply, and the speech in defence on the part of the prisoner, are all attached to the proceedings; they are none of them evidence; for though there is no objection to the prosecutor being a witness, I hold it to be perfectly informal that the prosecutor should be sworn before he makes his speech; he ought to make that speech not under that sanction: certainly therefore there is attached to the proceedings a great deal of matter not on oath; and it must be obvious to the recollection of every member of the Court that that is the case. Where an officer on his trial wishes to

have his character spoken to by officers of high rank and character, whom he does not bring before the Court, nothing is more common than to introduce their letters in his speech, and they are then attached to the proceedings. Then with respect to the proposition on the part of Colonel Palmer, I think the Court will see that it is quite impossible for them to admit it, unless it is acquiesced in by Colonel Quintin. There can be no doubt this is not evidence, and I think the Court will see that they are bound not to impute to any improper motives the conduct of any person who shall think it his duty to keep the Court strictly to the rules of evidence. I think, therefore, if Colonel Quintin objects to it, that the Court must support his objection, and must abstain from any reflection upon him in consequence; but if Colonel Quintin chooses to wave his objection, or chooses to make use in his speech of the questions he has put to the Duc de Guiche, with their answers, and chooses to admit the same latitude in the speech of Colonel Palmer; all we can say is, that as to precedent, it is novel; there is no precedent for it; but I do not know where you are to draw the line, where you are to admit of that which is not evidence to a certain extent, and where you are to exclude the remainder. I think, therefore, the Court, if they see it in the same light as I do, will be of opinion that it must depend upon whether it is acquiesced in by the other party or not; and if it is rejected, to reject it without suffering the least insinuation to arise in their mind against the credit and character of the officer who chooses to keep the Court to the strict rules of evidence.

President. The rule has been laid down with great clearness.

Judge Advocate General. This being thrown out for consideration, as it is merely for the speeches, and an answer cannot be expected at the moment; I suppose, Colonel Palmer, you will proceed now to your evidence upon the second charge?

Colonel Palmer. Certainly.

Colonel Elley sworn.

Examined by Colonel Palmer.

Were you one of the staff of the army serving in the Peninsula?—I was.

What situation did you hold; and how long?—I held the appointment of assistant adjutant general during seven campaigns.

Up to what period?—To this year.

Do you recollect the 10th Hussars forming the advance of the centre column of the army on the morning after the battle of Orthes?—I do.

Can you state the particular object of their duty on that day?—To push the rear-guard of the enemy with as much celerity as possible.

Were they not in pursuit of the main column of the enemy?—They were.

Was Lord Wellington with the centre column?—He was.

Were you with Lord Wellington?—At one period of the morning.

Did you convey any orders from him?—I did.

To whom?—To the lieutenant-general in command of the cavalry.

What were those orders?—To press the enemy as much as possible, to prevent the destruction of several small bridges on the high road.

From your experience in the cavalry service, do you not think that the nature of that service, particularly the light dragoons, requires the greatest energy, activity, and zeal, on the part of the officers?—Beyond all doubt.

Are not the same qualities requisite with the men; and is it not of importance that every individual in such a regiment should possess them?—I consider that personal information is necessary to every man connected with such a regiment; personal knowledge, information in the light service of war, the service peculiar to the light cavalry; individual intelligence more properly.

When a regiment is advancing in column upon an enemy, what do you conceive is the post of the commanding officer, and where should you expect to find him if you wanted him?

Judge Advocate General. There is no illegality in the question certainly; but I would only submit to the Court, whether they do not feel, and whether Colonel Palmer does not feel, that this is asking general questions as to the nature of the duty of an officer, which the members of the Court are fully as competent to answer as the witness.

Major General the Hon. T. Mahon. All the Court are competent to answer those questions themselves.

Colonel Palmer. Certainly. I do not mean any disrespect to the Court; but there may be a difference of opinion as to the situation of an officer according to

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may be in whatever squadron he likes; I think it might
then be of service to me to bring a man of Colonel Elley's
rank and experience in the army, who has been in every
action that has taken place on the continent, to state his
reasons why the commanding officer should be found on
such flank, or whatever part it might be of his regiment;
but I beg to withdraw the question, as I do not wish to
press it for a single moment after an intimation of the
opinion of the Court.

Judge Advocate General. I should be sorry if my suggestion were to induce an opinion in the mind of Colonel Palmer, that I thought he was in the least disposed to ask questions that were unnecessary; but in the course of such a proceeding, one gets out of the course, in some measure, without being aware of it: every opinion is perfectly admissible of a military man, where it is founded on local knowledge, or circumstances which are not within the reach of all the members of the Court; but where it is merely a question of military science, to affect the officer

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Lieutenant Charles Le
Examined by Col. Pa

Were you with the regiment upon
battle of Orthes, when the French were atta
the village of Hagelman?—I was.

State to the Court the circumstances which to
knowledge preceded that attack, from the time we
vanced in the morning, until the attack took place?—
I commanded the advanced guard of the right squadron. On the 28th we advanced about six o'clock in the morning. Sir Stapleton Cotton called me from the picquet as he passed the high road, and told me to proceed with him and three or four men, as a reconnoitring party, and to leave the remainder of my picquet to fall in with the regiment as they passed along the road. We proceeded on the road about a league, and found the enemy at a small village, the name of which I cannot recollect.

You, with Sir Stapleton Cotton?—Yes: we found a squadron of the enemy's cavalry posted on the other side of a small river superintending the destruction of a bridge by some peasants; and during the short time that he was reconnoitring them, the light squadron of the regiment had come up, supported by two guns of Colonel Gardiner's horse artillery; on which Sir Stapleton Cotton ordered the guns to fire a few rounds, and the enemy retired. He then ordered me to go down to the bridge myself with other officers of the regiment, to find out a ford across the river.

Judge Advocate General. They had destroyed the bridge?—They had so much so, that it was impossible

for the men to pass: a ford being found, Sir Stapleton himself advanced, and proceeded on the road. I then received an order to proceed on as quickly as I could to find out where the enemy were gone, and where they were. I proceeded about half a mile on the road, when I found their rear squadron halting, with their skirmishers drawn out to receive us, evidently waiting our approach. I sent back to report the circumstance to Sir Stapleton Cotton, and also for orders what to do, and likewise for a reinforcement of men, having only a few men with me. A reinforcement came up, and also an order from Sir Stapleton Cotton to attack the enemy immediately, and to push them as much as I could.

Judge Advocate General. A reinforcement of the 10th?—Yes. After having skirmished, and pushing them as well as I could about half an hour, I was joined by Colonel Palmer.

With more men?—No. He continued with me the remainder of the day. We proceeded skirmishing with them, and driving them as fast as we could with the supporting body.

Colonel Palmer. Do you remember receiving an order to charge the enemy?—I do.

From whom?—Captain Harding brought the order.

What was done when Captain Harding came up?—After Captain Harding brought the order to charge, Colonel Palmer ordered our skirmishers to prepare for the charge. At this time the supporting body was trotting up, with Colonel Quintin at their head. The enemy, seeing our intentions, called in their skirmishers, and filed off in a body as we advanced. At this time there was Colonel Palmer, Captain Harding, Lieutenant Fitzgerald, Lieutenant Fitzclarence, and myself, and about five or six men from fifty to one hundred yards in front of the supporting body. The enemy, finding we pursued them, broke into a gallop. We might be at this time about two hundred yards in advance. At this time I looked back to see how close the supporting body was with Colonel Quintin, and saw Colonel Quintin at the head of the squadron, and heard him call out, "Not so fast, you will blow your horses; trot." The advanced party, I have before mentioned, were at that time in a gallop, and, in fact, coming up with the enemy very fast, who halted, and formed their squadron across the road. We charged them, and they went about. At the time that we clashed

swords with them, I did not observe Colonel Quintin at the head of the regiment.

Judge Advocate General. You say you charged them; you mean the four or five with you?—Yes, we charged them and clashed swords; we were then about five or six and twenty yards from the supporting body, the little check brought us nearer to them; when the enemy went about the supporting body had joined us, and we all went in pursuit.

Colonel Palmer. Do you recollect, when very near the enemy, Colonel Palmer calling to the men to come on when Colonel Quintin was leading?—I do.

What did he desire you to do?—To rein in and keep as well dressed as we could, to form a line as well as we could across the road, the men and officers who were in advance.

Did it appear to you that your party with Colonel Palmer wanted support, from the men not advancing sufficiently fast to support the charge?—Certainly.

Do you mean to say that the men whom Colonel Quintin led did not join till after the shock, which gave them time to come up?—I do.

President. Of what did the enemy consist?—A squadron.

Captain Harding called in again.

Examined by Colonel Palmer.

Were you with your regiment in front of the village of Hagelman the day after the battle of Orthes?—I was.

Relate what passed from the time you passed the village to the time you were wounded.—We continued advancing.

Judge Advocate General. You were with your troop?—I was with my troop in support of the skirmishers, who were forcing the enemy's skirmishers to retire: after a short time the order was given to attack the enemy, upon which order I was desired by Colonel Quintin to go forward and call in the skirmishers, which order I communicated to Colonel Palmer, who collected them, which gave time to the supporting body under Colonel Quintin to come up; we then advanced at a brisk trot, and soon broke into a slow gallop. When within about one hundred yards or thereabouts of the enemy, I heard Colonel Quintin call to the men to keep their horses in hand, or words to that effect: at this moment I thought it right to join

those in advance. I perhaps should have stated before, that the skirmishers on being called in formed a little in advance; I joined those in advance, and saw nothing more of Colonel Quintin. When within a very short distance of the enemy I looked back, and was surprized to find that the supporting body was not nearer to me.

Do you recollect the moment when you left Colonel Quintin?—I left him at that time, at the time I felt it right to advance to join the advanced party, with which Colonel Palmer was and Lieutenant Eversfield.

Judge Advocate General. You left at the time the order was given by Colonel Quintin to the men to keep their horses in hand?—Yes.

Colonel Palmer. Was Colonel Quintin at the head of the supporting body, which you would have otherwise commanded, up to the time you have spoken of?—Yes, he was; he was so the greatest part of the day.

Were any messages sent by Colonel Palmer, whilst he was with the skirmishers, to Colonel Quintin, to advance nearer to him with his support?—To the best of my recollection there were.

Did you make any observation to Colonel Quintin relative to the distance the support was from the skirmishers?—I did.

State what it was:—I observed to Colonel Quintin once or twice that the supporting body were too far from the skirmishers.

Did Colonel Quintin make any answer?—If he did make any it has escaped my recollection.

Do you recollect Colonel Palmer asking you when you came up, previous to the charge, why you did not keep closer with your supporting body?—I think I do.

Do you recollect your answer?—To the best of my recollection I replied that it was not my fault; that I was not in command.

Lieutenant General Sir Samuel Auchmuty. I understand you to say you individually went up to the advance upon the order being given to the men to keep their horses in hand, not with your troop?—No, I individually went up.

Colonel Palmer. Did the enemy, who were retreating, form and wait for our attack?—Certainly.

In this charge you received a wound?—I did.

Did that prevent your keeping with the men, or going any farther?—Yes, I was compelled to stop my horse, and was helped off, and do not recollect any thing more.

President. The regiment continued in pursuit of the enemy?—I believe it did.

At what distance was the supporting body from the advanced party, when the advanced party made their charge?—The supporting body I left; the advanced body might have been twenty yards in front when I left the supporting body to join them. I cannot say exactly how far they were behind at that moment, but on my looking back I should suppose the supporting body were perhaps fifteen yards, or thereabouts, behind us.

Lieutenant Fitzclarence called again.

Examined by Col. Palmer.

Were you with the regiment on the 28th of February on the high road leading to Saint Seivere in front of the village of Hagelman in France?—Yes, I was.

State the nature of the attack made by the regiment upon the French, with the circumstances which to your knowledge immediately preceded that attack?—I belonged to Captain Harding's troop at that time (A.) which with Captain Lloyd's (F.) formed Colonel Palmer's squadron. We were on the 27th in the battle of Orthes.

Colonel Palmer. I do not want to go back so far; but immediately before the attack on the 28th?—I was at that time on the left flank skirmishing; the right and center squadrons were on the high road formed in divisions; Lieutenant Eversfield was in front with the skirmishers. Seeing those skirmishers called in, and the divisions advancing, as if to charge, I joined them likewise with my skirmishers. At that time there were at the head of the squadron, Colonel Quintin, Colonel Palmer, Captain Harding, Lieutenants Fitzgerald and Eversfield, Mr. Beauchamp, Sir Stapleton Cotton's Aid-de-Camp. The skirmishers were close to them, nearer to them than the division. We shortly afterwards broke into a gallop.

Judge Advocate General. Those skirmishers who were formed broke into a gallop?—Yes, the division advanced likewise. I heard Colonel Quintin call out "Trot, trot; don't blow your horses."

That was to the division that was advancing; he was with that division?—He was. I was with Colonel Palmer and the rest of the officers; the skirmishers were a little nearer those officers than the division; perhaps they might be on a line with them. The enemy then fired some pistols at us. I heard the noise of a horse falling in the rear.

I looked round to the rear, and saw a grey horse falling, or perhaps fallen, for I should think he was fallen; and not far from him I saw Colonel Quintin reining in his horse, the division breaking and opening to pass him. The enemy then formed across the road; we clashed with them, we charged them, and took some men and horses; the men were not well up with their officers; Captain Harding was wounded; we pursued them some distance, and then formed. Colonel Palmer asked the men if they were ready, that is, ready for another charge? He was answered yes. He had the command. He expressed a wish that Colonel Quintin should come to the front, or to know where Colonel Quintin was. The word was then passed for Colonel Quintin, the men repeating the word as it passed to the rear; he was gone to the rear of course. We then charged again, and we took some men and horses in that charge. I was then sent to the rear by Colonel Palmer for Colonel Quintin. I went some distance in the rear, and saw Colonel Quintin in the rear farther from me again. I hallooed to him very loud, "Colonel Quintin, Colonel Palmer wants you in the front:" those were the exact words I used, and galloped back to join my troop, apprehensive they might be engaged again, and there being no officer with the troop, Captain Harding having been wounded, as I have before stated.

President. Was the enemy still formed?—They were formed and forming; they were in great confusion.

Judge Advocate General. The skirmishers had not fallen in with the supporting division when the second charge was made?—There may have been some of the supporting body up when it was made; I have stated that we were not supported by the men; that is not the whole of my narrative. We were then ordered to open out to the right and left of the road, and the horse artillery came up and fired several shots at the French; after that the centre squadron advanced, Captain the Duc de Guiche's squadron, and a gallop was sounded; we, the right squadron, followed the centre squadron, soon after which a volley was fired by the enemy, when the centre squadron halted, came about, retired some few paces at a walk and turned the French cavalry, who on seeing our squadron go about, came on as if to charge, on the centre squadron's fronting, they, that is the enemy, halted and went about.

Colonel Palmer. Did the enemy advance up to charge us before Colonel Palmer took on the 10th to meet them?—Yes, they did.

After the first charge when Colonel Palmer called to know whether the men were ready, did not the French shew a disposition to charge?—Yes, certainly; they did shew a disposition.

Did they advance to meet us?—They did.

At the time that you state Colonel Palmer asked the divisions whether they were ready and the word was passed to the rear for Colonel Quintin, did the French at that time appear to be advancing?—I have already stated that they did advance, consequently they shewed a disposition to charge us, in consequence of which the second charge took place.

Major General the Hon. G. De Grey—Where was Colonel Quintin when the centre squadron passed the first to advance upon the enemy?—I do not know.

Did Colonel Quintin join Colonel Palmer in consequence of the message carried by you?—To the best of my knowledge he did not.

Major General Buller. If Colonel Quintin had been up with the remainder of the regiment, would a greater impression have been made upon the enemy?—I rather think there would; that is only matter of opinion, and therefore perhaps I ought not to give it.

President. You may give it; the Court will judge of the weight of it of course.

Major General Reynardson. When you delivered Colonel Palmer's message to Colonel Quintin, was he with any part of the supporting squadron?—He was among some of the men when I saw him; there were men with him I know.

Major General the Hon. G. De Grey. Do you know who gave the order for the guns to open upon the enemy, and the second squadron to advance passing the first?—No: Lord Edward Somerset was there, therefore I conceive he was the person; but I cannot say that I heard him give the word.

Colonel Palmer. I will now with the permission of the Court, call Brigade Major Jones, to ask him the question I proposed on the first charge.

Brigade Major Jones again called in.

Examined by Colonel Palmer.

What was the distance between General Morillo's quarters and those of Colonel Quintin at Cambo?—I take it to be between four and five miles; it may be nearly five from Lower Cambo to Larassoa.

President. What is the state of the road?—Some part of it ascends the hills, and is very good; and some part of it is very bad.

Lieutenant Beauchamp, of the 16th, sworn.

Examined by Colonel Palmer.

Were you aid-de-camp to Sir Stapleton Cotton on the 28th of February?—Yes, I was.

Do you remember the charge made by the 10th regiment on the French on this day?—Yes, I do.

Who was at the head of the column at the time it charged?—Colonel Palmer.

State the circumstance which attended that charge, and what to your knowledge subsequently happened?—I happened to be with the advance on that day sent by Sir Stapleton Cotton: we charged the enemy with the advance of the 10th; the enemy received the charge. When we closed, several sabre cuts ensued on both sides, the consequence of which was, that the French cavalry went about; we followed them to pretty nearly upon their own support, taking a certain number of prisoners, the number I do not exactly recollect, men and horses; after that, part of the French cavalry we had charged was driven upon its support. Seeing that there was no support of the 10th following I returned to bring up their support, upon which I fell in with Sir Stapleton Cotton who joined.

What particularly induced you to go back for support?—I was with Colonel Palmer; he charged the enemy some considerable distance, and seeing after the charge that the French were so far superior to the force Colonel Palmer had with him at the time, and that he must have suffered severely if the French had charged him, which they were going to do; Colonel Palmer, to make the best of it, I suppose rode against them, and received the charge: this induced me to go back for support.

Did Colonel Palmer desire you to go back for support?—I knew it to be Colonel Palmer's wish; but I cannot recollect whether he desired me in words. Colonel Palmer mentioned it to me in the first instance.

Colonel Palmer. The fact is I am not positive about that myself; but I know I called for Colonel Quintin. I am sure that Lieutenant Beauchamp would not have gone back himself at the moment the enemy were coming on, if he had not seen the necessity of support.

Judge Advocate General. Lieutenant Beauchamp states that he knew it to be your wish?

Colonel Palmer. That is quite sufficient.

Serjeant William Lacey sworn.

Examined by Colonel Palmer.

Were you orderly to Colonel Quintin on the 28th of February?—Yes, I was; the day after the battle of Orthes.

Do you recollect the regiment on that day charging the French cavalry on the road?—I do, perfectly well.

Where were you at the time the first division was riding down to the charge?—With Col. Quintin in front of the division.

Do you remember as you were riding down to the charge, passing Col. Quintin?—Yes.

How far, at the time you passed Col. Quintin, were you from the enemy?—I should suppose twenty yards, or somewhere thereabouts, not more, I know; and then the Colonel was going the same pace the division was.

What made you pass Col. Quintin?—My horse going faster than his mare could do was the reason of my passing him: it appeared to me his mare was completely blown.

Did Col. Quintin say any thing to you as you passed him?—Nothing that I recollect.

President. How far were you in the rear of the first division, which consisted of the skirmishers, when you were at the head of the body of support with Colonel Quintin?—I suppose it might be a dozen yards; immediately upon that, we increased our pace.

You say you were twenty yards from the enemy?—Yes, before we got into the enemy. I suppose we were about a dozen yards in the rear of the division of skirmishers.

Did the horses of the squadron appear in any degree distressed or blown?—Oh, yes; the principal part of the division: several horses of that division fell back.

Do you suppose that to be the reason of the Colonel's desiring them to keep back their horses?—Several times I heard the Colonel give that order, as we were advancing to the enemy, to keep their horses in hand, and not to blow them.

That was in consequence of their being very much distressed?—That appeared to me to be the case, or the men would not have fallen back as they did.

Major Gen. the Hon. G. De Grey. Do you know what

became of Col. Quintin after you passed him?—Not for some few minutes I do not.

President. When did you first see him again after you had passed him?—The first time I saw him again, was after Col. Palmer had ordered the men to prepare for another charge: he asked the men whether their horses were ready for another attack, and they said yes, and then a call was made for Col. Quintin. I did not hear him answer, but in a minute or two afterwards, my horse passed up against his, before I was aware that he had come up.

He came up in so short a time that he could not have been much in the rear?—I cannot say how far he was in the rear, but he was up in a very short time indeed.

Col. Palmer. You say that when Col. Palmer called out to know whether the men were ready for another charge, you ran up your horse close against Col. Quintin's?—Yes.

Do you mean to say that Col. Quintin was with Col. Palmer when he led them a second time to the charge?—I did not see him.

When did you see him in front again?—After Colonel Palmer's calling for Col. Quintin, after the movement.

Was it before the second charge that you saw Colonel Quintin?—Oh, yes; I was with him for twenty minutes, and never left him.

Major Gen. the Hon. G. De Grey. Where was he with the supporting division; at the head of them?—Yes, and continued with them.

When the advanced division went on?—Yes.

President. Were you near enough to Col. Palmer to hear him ask the men whether they were ready to make another charge?—Col. Palmer was then four or five files from me.

You heard distinctly what he said?—I did.

At this time was Col. Quintin with you?—At the time that expression was made use of, I was not with Col. Quintin.

Col. Palmer. Did you go down yourself in the second attempt, after Col. Palmer had called for Col. Quintin?—I did.

Then was it after that second attempt that you saw Col. Quintin?—Before the second attempt was made.

President. He before said he was at the head of the supporting party with Col. Quintin.

Col. Palmer. Do you mean, by the second attempt, the time when the centre squadron advanced, and was stopped by the fire of the infantry; what do you mean by the second attempt?—The second attempt was when we were stopped by the fire of the infantry, before we came to the precipice.

Col. Palmer. That is what I supposed, that is another part of the transaction.

Serjeant Marchant called again.

Examined by Col. Palmer.

Do you recollect the regiment charging the French cavalry on the 28th of February?—Yes, on the high road.

To whose troop did you belong?—Captain Harding's.

Where were you with that troop?—I was supernumerary in the rear of the front division.

At the time you were riding down to charge the French, was Colonel Quintin at the head of the leading division?—When we first advanced, he was at the head.

Did you pass Col. Quintin?—I looked forward nearly as we had arrived at the enemy, and I did not see Col. Quintin.

Private William Kemp sworn.

Examined by Col. Palmer.

To what regiment do you belong?—The 10th Hussars.

Do you remember charging the enemy's cavalry on the road on the 28th of February?—Yes.

Where were you stationed in the column?—In the rear rank of the second division.

Do you remember passing Colonel Quintin?—Yes, I do.

Where?—As near as I can tell, about fifty years before we came to the enemy.

Did he say any thing as you passed him?—Yes.

What?—"Go on my boys, go on," or something to that effect, I cannot speak to the words.

President. He encouraged you to go on?—Yes, he did.

Private William Stoner sworn.

Examined by Colonel Palmer.

Were you on the 28th of February in front of the regiment, when it charged the French cavalry?—Yes.

Do you remember seeing Colonel Quintin at the time

you were riding down in front of the leading division?—No, I do not.

After the enemy had charged, do you remember the divisions being again formed?—Yes.

By whom?—Colonel Palmer.

Do you remember any question being asked the division, whether their horses were fresh and ready for another charge?—Yes.

By whom?—By Colonel Palmer; he asked, and the answer was that they were.

At this time was any enquiry made for Colonel Quintin?—Not to my knowledge.

Do you remember the word being passed for Colonel Quintin amongst the men by Colonel Palmer?—No, I do not.

Do you remember Colonel Palmer calling for Colonel Quintin?—No, I never heard him.

Do you know whether Colonel Quintin was present, or not, at the time that Colonel Palmer led the men on a second time?—Not to my knowledge; I never saw him.

Did you hear any observations made by the men after the charge, respecting Colonel Quintin's absence.

Judge Advocate General. I should think you must see in a moment, Colonel Palmer, that observations made when Colonel Quintin was not there cannot possibly be evidence.

Colonel Palmer. I withdraw the question.

Serjeant William Hodges called again.

Examined by Colonel Palmer.

Do you recollect the regiment charging the French cavalry on the road, on the 28th of February?—Yes.

To what division did you belong?—The right division of the regiment, the right squadron.

Was Colonel Quintin leading that division at the time you were approaching the enemy?—He was.

Where were you placed in the division?—On the left of the division, the front rank.

Did you pass Colonel Quintin?—Yes, I did.

At what time?—Thirty, forty, or fifty yards before I brought the division up in front.

Judge Advocate General. Before the charge?—In the charge.

Colonel Palmer. Did Colonel Quintin pull up his horse

to let the division go by?—He was at a gallop when I passed him.

President. Did Colonel Quintin's horse, when you passed him, appear distressed or blown, or out of wind?—I do not know, I did not see.

Colonel Palmer. What was the general condition of the troop at that time?—Very good.

In what respect?—The horses were in corn at the present time; they were ready to do their day's work.

What appeared to be the condition of Colonel Quintin's horse?—It appeared to be in very good condition.

Have you ever known Colonel Quintin's horses out of condition?—No.

Have you seen them in good condition when the rest of the regiment was out of condition?—I am not able to speak to that.

What observations did Colonel Quintin make to you as you passed him?—The words that I heard him say at the time I passed him, were, "Go along, my dear boys."

Did you ever hear it observed by any of the men that Colonel Quintin's horse was blown?

Judge Advocate General. If Colonel Quintin was present it would be evidence.

Colonel Palmer. One man gives us his opinion, that Colonel Quintin's horse was blown; then, with submission to you, I would ask the others their opinion.

Judge Advocate General. There can be no objection in point of evidence to each man stating his opinion of the state of the horse, and that will be liable to cross-examination; but my objection is to the statement of what the other men said, which is not upon oath, nor open to cross-examination.

President. It is mere hearsay evidence.

Judge Advocate General. If Colonel Quintin was by it would be evidence.

Colonel Palmer. This is a sort of thing the men will always talk of, and it appears to me any observation of the men on the character of the commanding officer is a very serious thing: supposing any comments were made upon Colonel Quintin's conduct on that day, you think it improper for me to ask whether he heard any observation on Colonel Quintin's conduct.

Judge Advocate General. Yes; and I will tell you why the more serious, the more important that it should be

upon oath: when they state what they have to say upon oath they are liable to cross-examination.

Colonel Palmer. I really felt it a very delicate thing to be asking the men their opinion of their commanding officer, and did not canvass the regiment with a view to that. If I ask the serjeant what observations he heard, and who made them, then I come to the point.

Lieut. General Sir Samuel Auchmuty. You may ask what men made observations, I should think, so as to call those men to state them upon oath; but not what the observations were: you may ask any man whether he heard observations, and who made them, and then call those men to state the observations.

Judge Advocate General. Colonel Palmer has put into my hand a paper, in which it is stated that upon General Whitelocke's trial, it was a question asked and answered, whether the soldiers of the regiment did not make observations on General Whitelocke's conduct. I ask whether that was followed by giving in evidence what their observations were, and I am told it was. I cannot charge my memory whether it was so or not; I was not in office at that time; but nothing can be clearer on every principle of common justice than this, that you should not admit as evidence, before a court precluded from hearing any evidence but that on oath, mere hearsay, not given under the sanction of an oath, and not liable to cross-examination. It may happen, it must be obvious to every man, that an observation may be made by a man very flippantly at one time, that he may not be disposed to repeat under that sanction afterwards.

Colonel Palmer. Suppose it was general conversation among the men, that Colonel Quintin did not act properly; that appears to me to be a very material fact?

Judge Advocate General. It is because it would be a material fact, that I think it must be on oath.

Colonel Palmer. Suppose I know a man who did say that?

President. Then bring that man forward, and ask it him on oath.

Colonel Palmer. I never have asked the question: if this man knows any who have said so, I will then call them, if they are here.

Judge Advocate General. What I state is not with the least view to embarrass; but it is my duty to take the

objections which occur to me, and the Court will decide.

Colonel Palmer. Did you hear the men make observations on Colonel Quintin's conduct on that day?—No, I did not.

President. I attended General Whitelock's trial, and do not recollect that circumstance alluded to; but even if it is so, I do not think we are at liberty to follow a precedent which is in itself illegal. I think it is contrary to all precedent, and to all principle.

Colonel Palmer. Did you, either on that day, or afterwards, hear the men say what they thought of the different officers' conduct, and particularly Colonel Quintin's?—I never heard any thing said about Colonel Quintin till after this Board was ordered; and after that, I heard them say, that they thought it very odd; that they thought he ought to be in front.

Judge Advocate General. I would submit to the Court, not only in respect of this man, but others who may be called, that there is a broad distinction between ascertaining the fact that observations were made, and what those observations were: it may be in some cases of importance to know what the general sentiments of the regiment were as to their commanding officer; but no Court composed of officers would think it could at all assist them in the investigation they were ordered to pursue, to dive into what might be the reasonings, or the observations of a private soldier on the conduct of his commanding officer. It may be a fact, that the commanding officer did not satisfy the expectations of his men: that the Court can get at, by regular evidence; but this, if it is a fact, must be given in evidence, as a fact; and if it is only opinion, I think the Court will not find it supported by precedent, or find it useful to set a new precedent for taking the opinions of the men as to the conduct of their commanding officer.

Colonel Palmer. I only wish to justify myself to the Court.

Judge Advocate General. I do not mean to make the least reflection upon you for putting the question.

Colonel Palmer. One witness says that Colonel Quintin's horse was blown: and that, if so, would be a sufficient reason for his not keeping up in the charge. I thought upon that, I might ask the opinion of other men.

Judge Advocate General. As to whether the horse ap-

peared to be blown or not, or in good or bad condition, every man who states his opinion upon that, gives that which is evidence, but not the opinion of others.

Colonel Palmer. If the whole of the serjeant's answer is not put down, where he says that he did hear conversations afterwards——

President. Not till after this Court was ordered.

Colonel Palmer. Then I should wish the whole of the question and answer to be erased.

Judge Advocate General. I think the whole should be erased; that would be better: we must not garble it certainly; and the whole must be struck out, or the whole must stand.

President. I must take the sense of the Court, whether that which is given on oath before this Court can be erased.

Colonel Palmer. I have only to apologize to the Court for having put a question supposed to be irregular, which I was led into by precedent on General Whitelocke's trial, as it was given to me; I only wish to get at the fact; I am perfectly contented it should be erased.

Judge Advocate General. Then the opinion of the Court should be taken whether it should be erased.

President. The Court is unanimous that it should be erased.

Major General the Hon. G. De Grey. Did any of the men's horses belonging to the division appear blown during the advance?—No, none.

Was there any break in the division?—Yes.

But not for that reason?—No.

What was the occasion of that break in the division?—One man's horse falling down in the front rank.

Colonel Palmer. Were they going at any pace to charge, previous to your passing Colonel Quintin?—Yes.

At what pace?—At the time we passed the Colonel, we were galloping as fast as our horses could go.

Major Gen. the Hon. G. De Grey. What was the occasion of the man's horse falling, which you have spoken of?—There was a hole in the road, I believe, and the horse stumbled.

Colonel Palmer. Were you going as fast as you could before you passed Colonel Quintin?—No, we were not.

President. How far were you from the enemy in charge when you passed Colonel Quintin?—As nearly as I can speak, between thirty and fifty yards.

Colonel Palmer. You mended your pace on Colonel Quintin's using those words?—Yes.

Private John Earle sworn.

Examined by Colonel Palmer.

Were you in the charge made by the 10th on the French cavalry on the road, the day after the battle of Orthes?—Yes.

To what division did you belong?—The right; in the front rank of that division on the left.

How near were you to Colonel Quintin before you passed him; was he with your division?—He was not forward with us; he was on the side of the road.

How near did you pass him as you went by?—Within half a horse's length.

Had you been near him for some time previous to this; was he with your division?—I do not recollect.

Did you observe Colonel Quintin and his horse, as you passed him?—I observed Colonel Quintin.

Did Colonel Quintin's horse appear distressed, or blown?—When we passed Colonel Quintin his horse was on the trot, I think.

Did the horse appear to be distressed?—Not that I perceived.

Was your own horse distressed at the time of passing Colonel Quintin?—At the moment of passing Colonel Quintin, my horse was not distressed; it was in full speed, and had been for some time.

Did not you continue the charge for some time afterwards?—Yes.

At the same pace?—Yes, at the same pace that we passed Colonel Quintin.

President. What distance were you from the enemy when you passed Colonel Quintin, to the best of your knowledge?—I cannot positively say.

President. I have asked that two or three times, because that ascertains the state of the horses in some measure; if a man has not above forty or fifty yards to go he may make an effort.

Major Gen. the Hon. G. De Grey. Did any of the men's horses appear distressed, and fall back in consequence?—I cannot possibly give an account of others.

Colonel Palmer. Did you not overtake me after you had passed Colonel Quintin?—Yes, I did.

Cross-examined by Colonel Quintin.

What distance had you been galloping when you passed Col. Quintin?—I cannot possibly judge of the distance.

How long?—I cannot say to a moment of time.

Major Gen. the Hon. T. Mahon. How long had you been galloping before you passed Col. Quintin; had you been ten minutes galloping?—I cannot say.

Col. Palmer. Did Col. Quintin say any thing to you as you passed him?—Yes.

What did he say?—"Let your horses go, men; do not spare them."

Did you increase your pace in consequence of that?—It was impossible to increase the pace, the horses were then going as fast as they could.

Col. Palmer. Perhaps he is not aware of the contradiction he makes, for he says he overtook me after that.

Judge Advocate General. And so he would if he was going at a quicker rate than you were.

Col. Quintin. Do you recollect how long you had been galloping before you passed Colonel Quintin?—It is impossible to say.

Was it a long time, or a short time?—It was a considerable time; it is impossible to speak exactly to it?

Court. Do you recollect the division opening, to allow Colonel Quintin to go to the rear at any time?—I do not.

Private Henry French sworn.

Examined by Colonel Palmer.

Were you with the leading division upon the road when they came down to charge the French, the day after the battle of Orthes?—Yes, I was.

Did you pass Colonel Quintin?—Yes.

At what time?—When the men were beginning to charge.

Did Colonel Quintin say any thing as you passed him?—He desired us to go on and not spare our horses, but they were going at full speed at the time.

Did you increase your pace in consequence?—Yes, we were then within about thirty yards of the enemy.

Was your horse in good condition then?—Yes, very good.

Did you continue to go along the road?—Yes, I continued the charge till I got wounded.

Did you pass near Colonel Quintin?—I was on the left hand side, and Colonel Quintin was on the left as I passed, but to say what distance I passed him I cannot.

Did Colonel Quintin's horse appear blown?—Upon my word I did not take particular notice at that time, for I was not thinking of it. I know that as I passed Colonel Quintin was advancing.

You were with the leading division?—Yes, I was.

Was Colonel Quintin near to you previous to that coming up to the charge?—Yes, he was in front of the division on the left, not in the centre.

President. You were in the front rank of the division?—Yes, and he was in front of me.

Colonel Palmer. During the time he was with you did his horse appear to be distressed?—I did not perceive it.

Serjeant Major John Shadwell sworn.

Examined by Col. Palmer.

Did you act as serjeant major on the day after the battle of Orthes, when the 10th charged the French cavalry in the road?—Yes.

Were any prisoners made?—Yes.

How many?—About eighteen.

French prisoners?—Yes.

What was the condition of the horses of the regiment at that time?—The horses were weak at that time.

President. Were they upon green or dry forage at that time?—I do not recollect.

Major Gen. the Hon. G. De Grey. Did you see the divisions advance to the charge?—Yes.

Did any of the men's horses appear distressed?—No, I did not see that they were.

Did any fall back?—I did not see any.

President. Were you in the front or the rear?—I was in the rear, I went from the front to the rear, about three divisions from the rear.

Colonel Palmer. At what distance were you from the leading division when you first heard or saw that they were going to charge the enemy?—I might be three hundred yards, I dare say, or more; I cannot say to a few yards.

Where did you pass Colonel Quintin?—I passed him in front of the second division.

After passing him did you ride on to overtake the first division?—I passed him about thirty, or from thirty to

forty yards from the first division; the first division was in action at the time I came up.

Just engaged with the enemy?—Yes, just engaged when I came up.

You came up in rear of the division which was engaged?—Yes.

Did you take any prisoners?—Yes, and I took them to the rear.

Major-Gen. the Hon. G. De Grey. Did you leave Colonel Quintin with the supporting division when you went on to the advance?—He was in the front of the support, in front of the regiment except the first division.

You left him in front of that second division, not in the rear of it?—No, he was in the front of it.

Colonel Palmer. At what pace was the leading division going when they attacked?—They were put in motion in a trot.

That was the supporting division?—Yes.

What pace were the advance in when they attacked?—In a gallop.

Did you come up with them in a short time?—Yes, very shortly, just as they charged.

About the period that they clashed with the enemy?—Just as they charged.

Then do you suppose that you rode harder than the men in the advance did?—Yes, a great deal harder, I rode as fast as my horse would go.

And that was much faster than the men were going in front of you?—Yes, it was.

You swear to that?—Yes.

Colonel Palmer. I am now going to the second part of this charge.

Lieutenant Fitzgerald sworn.

Examined by Col. Palmer.

Were you with Col. Palmer in the charge made by him on the French, on the 28th?—Yes.

Do you remember Captain de Grammont's squadron being brought to the front?—Yes, I do.

Did you command the skirmishers in advance?—Yes.

State to the Court the circumstances which took place from the period of your taking the command of the skirmishers till the columns were put to the right about.—We were advanced a good way up in the road, and received a volley from some infantry concealed in a wood on both sides of the road; we remained there for about a

minute after the volley, when I observed the main body of the French coming forward at a gallop, with the intention of driving in the skirmishers. Having but few with me, I thought it prudent to look back to see in what manner I was supported; on looking back I found that the rear of the supporting division had been put about, and had already retreated to some distance; the overpowering body of the French obliged me to do the same, and to retreat with the skirmishers. After the supporting body had retreated to some distance, I observed Captain de Grammont waving his sword, and desiring the men to look to him, for he was their captain. I joined Captain de Grammont's division with the skirmishers, it had already fronted; upon observing this the advanced division of the French pulled short up quite on a sudden, threw up their skirmishers and retired.

When you heard Captain de Grammont call to his men to front did you see Colonel Quintin?—No.

Did you see him before you went back to your skirmishers?—No.

Were the skirmishers in front the whole time?—The whole time till I joined Captain de Grammont's division.

You were always between the French and the centre squadron?—Yes.

Major Gen. the Hon. G. De Grey. These were not the same skirmishers that have been already spoken of?

Colonel Palmer. No; these were the skirmishers of the centre division.

Lieutenant Fitzgerald. I formed on the left of the division after I was driven in.

President. You were near enough to hear what Captain de Grammont said?—Yes, I was.

Captain Stuart called again.

Examined by Col. Palmer.

Do you remember the circumstance, on the 28th of February, of Captain de Grammont's squadron being ordered to the front to relieve Colonel Palmer after the charge, in which Captain Harding was wounded?—Yes.

Was your troop in that squadron?—Yes.

Do you remember the time of receiving a volley from the French infantry?—Yes.

State what happened in consequence.—The leading divisions were ordered to put about by Colonel Quintin; Captain de Grammont, who was then in front, came back and ordered the leading division to front.

Was Colonel Quintin there at the time?—A little before that Colonel Quintin passed my division towards the rear.

After the leading division had been put about?—Yes, which leading division Captain de Grammont headed.

Did you see Colonel Quintin after that?—No, not for some time after that.

You did not observe when he came to the front after that?—No, I did not observe the exact time; a short time after that we were ordered on, and then I believe Colonel Quintin was with the second squadron.

Did you hear Captain de Grammont call to the men?—I heard him call to the men in front.

Did he call out very loud?—Sufficiently loud for my men to hear him; my division turned immediately.

Did you hear any other words?—No, I do not recollect hearing any other words that he used particularly.

You heard him call to them to front?—Yes.

Court. Do you know where Colonel Quintin was when the centre squadron was ordered forward?—No, I do not recollect.

Do you know by whom the order was given?—No, I do not.

Major Gen. the Hon. G. De Grey. Was Lord Edward Somerset near the centre squadron during the operations after it was ordered forward?—I am not certain whether he was or not; I rather think he was a little in my rear.

Adjourned to to-morrow ten o'clock.

THIRD DAY.

Wednesday, October 19, 1814.

Colonel Palmer. General Vyse.—With your permission I should wish to call in Lieutenant Fitzclarence for an explanation of part of the evidence he gave yesterday; he gave his evidence before Serjeant Lacey; and it is in consequence of the evidence that Serjeant Lacey gave, who was my witness, that I wish to re-examine Lieut. Fitzclarence as to that part of Lacey's evidence in which he stated Colonel Quintin's horse to be be blown, as it seemed to make a great impression upon the Court.

President. There appeared to be a palpable contradiction between the witnesses.

Colonel Palmer. And I think that if the members of the Court should be of opinion that it is established that Colonel Quintin's horse was blown, it is their duty to acquit Colonel Quintin of this charge, and therefore I wish to clear up that point to the satisfaction of the Court.

President. I suppose there can be no objection to Colonel Palmer's examining a witness to this particular point.

Judge Advocate General. I take it nothing can be more orderly than to call up a witness again to a fact to which he has not been before examined.

President. Where there is a contradiction upon any particular point, it appears desirable to clear it up certainly.

Colonel Palmer. It is particular, for it is a matter of opinion upon the part of Serjeant Lacey, but it is a matter of fact on the part of Lieutenant Fitzclarence, as he states Colonel Quintin's horse to have been reined in; I wish him to explain what he means by that.

Lieutenant Fitzclarence again called in.

The following extract was read from the evidence given yesterday by Lieutenant Fitzclarence:

"Not far from the horse that was fallen I saw Colonel Quintin reining in his horse."

Colonel Palmer. State to the Court what you particularly observed upon Colonel Quintin's reining in his horse. Can you state to the Court that the horse was actually reined in?—Yes, I can state that, and have stated it, and the horse was struggling to get forward, as any horse would do that was passed by others on both sides; any fresh horse would struggle to get forward, which the horse did.

Did you make any observations upon it to any of the officers about that period to the best of your recollection?—Of what?

Relative to what you observed as to Colonel Quintin's reining in his horse?—Yes, I mentioned it to Mr. Eversfield; indeed I have mentioned it at various times.

Judge Advocate General. I take it the object that Col. Palmer has in view in asking that question (it is quite clear the observations themselves would not be evidence) is to shew how strongly it impressed itself upon Lieutenant Fitzclarence's mind that he cannot be mistaken now in what he states as to his recollection, and in that view it is evidence.—*Lieut. Fitzclarence.* I have frequently made the observation to other persons.

Colonel Palmer. Did you not complain to Captain De Grammont that the officers were not supported by the men on that first charge?—Yes, I did mention it to Captain de Grammont in Captain Stuart's presence, and I was reproved by Captain de Grammont for so doing; shall I state my expression? I stated to Captain De Grammont that the men did not behave as they had done on former occasions at Moralles, where they had behaved much better and charged the French.

Do you recollect my reprimanding you for holding such language, and desiring you on no account to repeat it?—Yes, I do recollect that likewise.

Colonel Palmer. Mr. Judge Advocate, I think there are one or two officers who held the same language. I do not wish to trouble the Court with bringing them in, but I wish to impress the fact upon the Court. I will call Mr. Fitzgerald and Mr. Eversfield, if the Court please; but if you think my stating that they held the same lan-

guage is sufficient, I am satisfied; if not I will call them in.

Judge Advocate General. I think it would be more regular to call them; it would save all objection.

Colonel Palmer. This is a most material part of the case.

Judge Advocate General. I think the Court will feel it will be better to have the officers in, and to ask them the question.

Colonel Palmer. I will ask Lieutenant Fitzclarence another question. Where did the right squadron pass the previous night?—On out-lying picquet the horses were standing the whole night; fifty of the men had been out to scour the ground where the 7th had charged that day during the battle of Orthes.

Was not that a very fatiguing duty?—Yes, it was particularly so.

Was not the night particularly cold?—Yes.

The officers were out?—Yes, I was out myself.

Colonel Palmer. I would wish to ask another question, and my object is this, to shew that this right squadron had done a great deal of duty, and were out the whole of the night previous to what they did the next day, whereas Colonel Quintin's horse had not this duty to perform. I would wish to ask whether Colonel Quintin's horse was not in the stable during this night?

Judge Advocate Gen. There can be no possible objection to the question, if the fact falls within the knowledge of the witness.

Colonel Palmer. Were Colonel Quintin's horses out that night?—The regiment was in quarters to the best of my knowledge, and I have no doubt Colonel Quintin's horses (he being the first man in the regiment) would be put up first.

What time did we move off in the morning?—Between five and six.

What distance did the regiment move before it came to the spot where the enemy were charged?—Rather more than three leagues I think, that is, from the village of Sucherlamere through Hagelman; it is three leagues to Hagelman, and we drove the enemy through Hagelman.

At what hour of the day was the charge made, as nearly as you can speak?—I suppose about ten, that is a league an hour, which we certainly did march: it is difficult for me to judge, we were so actively employed dur-

ing the whole time, I never looked at my watch, and I do not suppose that any body else did.

How far do you suppose it was from where the division under Colonel Quintin commenced the gallop to the spot where it is stated that he fell back?—Several hundred yards; I did not see it commence the gallop, I came in at the left as I stated; the horses were trotting and galloping very fast then. I speak from the time I came into the road.

Endeavour to recollect yourself, and state what distance, whether half a mile or a mile, or what; it is such an indefinite term several hundred; it may be four or five, or ten or twelve?—I am such a very bad judge of distance, and we were going so fast that I cannot speak more decisively; we were going eight or nine miles an hour; before that the good trotters were trotting, and the bad ones were galloping; therefore it is difficult for me to state where the division had begun to gallop.

How far do you suppose it was from the spot where we first clashed with the enemy to the point where we halted, where they joined the main body?—How far did we drive them you mean—three quarters of a mile full.

You speak to the best of your recollection?—Yes, we were going very fast, and three quarters of a mile is soon rode over.

How far was it when the horses were put at speed?

President. What you would call in charge?—A hundred yards.

Major-Gen. the Hon. G. De Grey. Had you your regular quantity of forage that night?—We had some.

Colonel Palmer. I was with the squadron that night, and there was a dispute about it, but the horses got plenty of forage.—There was a dispute with General Barnes, I remember, but the horses had forage.

Captain Lloyd again called in.

Examined by Col. Palmer.

Were you with the right squadron on the day it charged the enemy?—The day after the battle of Orthes I commanded my own troop, which was the left half squadron of the right squadron.

Do you recollect the orders being given to charge the enemy?—I did not hear the orders to charge, but from the side of the road where I was, at a distance, I saw the regiment commence a gallop, and supposed they were going

to charge; from the distance I could not hear the orders, I could not hear any personal order to charge.

Major-Gen. Dilkes. You mean the right squadron?—Yes, I speak to the right squadron.

Colonel Palmer. Where was Colonel Quintin at the time?—At the time I was at the side of the road I saw Colonel Quintin in front of the leading division with Captain Harding's troop; the reason why I supposed they were going to charge, was that I saw the skirmishers forming, that gave me reason to suppose they were going to charge.

What did you do in consequence?—In consequence I immediately ordered my division to gallop, the division in the rear, and galloped up as hard as I could with my horses to support the leading division. I afterwards hurried the horses more, in consequence of not being able to make the serjeants understand me at first.

When did you overtake the leading division of the right squadron?—I did not overtake the leading division of the regiment till they were halted, after the charge was over.

How long was it from the time you arrived to your advancing again upon the second attack?—The time was not more, I should think, than a minute, or a minute and a half; I cannot speak exactly to the time owing to the confusion.

Did I say any thing to you on your coming up?—On coming up I went to the front of Captain Harding's troop, the front of the whole squadron. Colonel Palmer asked me whether the horses were blown, and I said no, or words to that effect.

Did you hear me then call to the men?—Colonel Palmer then addressed the men, and asked them whether their horses were blown; the men replied no, and the rear division were very anxious to get on, and began waving their swords to get on.

State what distance it was, to the best of your belief, from the time the gallop commenced after the orders were given to charge, to the spot where the enemy were met?—The only way in which I can answer that question is, that I can state the distance to the best of my knowledge to where I saw the first of the enemy's horses fall, which I supposed to be killed in the charge, that I take it to be about six hundred yards.

Judge Advocate General. From where you put your

horses into a gallop?—Yes, we were a great distance from Colonel Palmer; the leading division was a great distance from the supporting division: we were ordered to keep sixty paces, but I am persuaded that some of them were eighty.

Major-Gen. the Hon. G. De Grey. What division did you come up with?—With the third division of the squadron.

Were there two divisions in advance of you?—Yes.

Did the fourth division come up with you?—About half the fourth division only was then present, half of my troop was then forming the skirmishers, the other half of the rear division was then with the skirmishers in the advance.

Judge Advocate General. I take you to say, "I guess it to have been about six hundred yards from the spot where I commenced the gallop, to the spot where I first saw some of the enemy's horses fall, which I presume to have been the place of contact on the first charge?"—Yes, that is right.

Colonel Palmer. You state that you saw Colonel Quintin in front of you when you commenced the charge?—When I saw the skirmishers in, Colonel Quintin was then in the front.

Do you recollect passing him on the road?—No, I do not; I have a faint recollection of passing Colonel Quintin, but I cannot speak to that. I feel confident of having done it, but from the hurry of the minute I cannot speak to it, and particularly having been speaking the whole time to my own serjeant, who I thought did not bring on the men as fast as he could. I was speaking to him and to the men.

Do you recollect what horse Colonel Quintin rode that day?—I cannot take upon myself to swear to it, but to the best of my belief he rode a large brown mare which he generally rode.

Can you speak to the condition of the horse?—The condition of his horse was capital, I mean by that that the horse was not over fat, but a horse in capital working condition; in fact, all Colonel Quintin's horses were.

Do you remember afterwards, when the centre squadron was brought to the front?—I do, I went back to speak to Colonel Quintin.

Do you remember the volley that the leading division received?—I remember the leading division of the centre squadron receiving a volley from infantry.

Major Gen. the Hon. G. De Grey. Do you know where Colonel Quintin was at the time you are now speaking of, at the time the volley was received?—He went on at that period with the centre squadron, at the head of the centre squadron.

Not at the head of the party that was fired upon, I suppose?—They appeared to me to be all fired on.

Lieut. Gen. Sir Samuel Auchmuty. The centre squadron was then in front?—Yes.

Major Gen. the Hon. G. De Grey. They went on as a squadron?—Yes.

And he was at the head of the squadron?—Yes. I was then at the head of the right squadron.

Major Gen. Rebow. Did you see the head of the centre squadron?—We opened out, and then they went through us, and he was at the head of them then as they passed us to the advance.

Major Gen. Buller. What was the nature of the road, Colonel Palmer?

Colonel Palmer. A plain broad road; it was a hilly road but a good road.

Major Gen. Buller. You were confined in your operations to that road?

Colonel Palmer. Yes, we were mostly confined to that road; we could get out of it sometimes a little way, but were soon obliged to draw in again.

President. You were at the head of the right squadron?

Colonel Palmer. Yes, but Colonel Quintin was in the front when the volley was received, that I take to be the case.

What took place on the volley being fired?—I was in the front of the second squadron which supported them; we then became the supporting squadron; on receiving the volley, instantly after the front division went about, and immediately, or soon after, Colonel Quintin came past me, and ordered me to put my squadron about.

Were you put about?—I put about immediately; we retreated I should think sixty or seventy yards, more than that rather.

President. Who brought them about by threes again?—Observing the front divisions formed again, and that the enemy were coming galloping down the hill towards them, I thought it my duty to front the division again without orders.

Major Gen. Rebow. Then after the front division were halted and formed, who gave the order of command?—I did not hear the word of command.

Major Gen. the Hon. G. De Grey. Did you see Colonel Quintin come up again?—I did not.

President. You fronted your own in consequence of seeing the enemy coming down the hill?—Yes. Colonel Palmer was on another duty, and I had the command of the squadron.

Colonel Palmer. I wish to call back Mr. Eversfield, and Mr. Fitzgerald; and if the Court have no objection, I should like to call Captain Harding to the same point, as he was with Colonel Quintin at the time.

Judge Advocate General. About the horse?

Colonel Palmer. Yes.

Captain Harding again called in.

Examined by Col. Palmer.

At the time you passed Colonel Quintin to go to the officers in the front, did it appear to you that his horse was distressed?—Not the least. I do not see how it could be; but that is merely an opinion.

The evidence given by Captain Harding yesterday, was read over.

Judge Advocate General. The time at which he left Colonel Quintin, was when Colonel Quintin desired the men to keep their horses in hand.

Colonel Palmer. At the time that Colonel Quintin desired the men to keep their horses in hand, and to trot, did his horse appear to you to be distressed?—Certainly not; but that is matter of opinion.

Were you not with Colonel Quintin the greater part of the day previously?—Yes, I was.

Do you recollect what horse he rode?—To the best of my recollection he rode a brown mare: however I cannot speak decidedly to that.

You stated yesterday that you looked back when you were near the enemy, and you were surprized that the supporting party were not nearer to you: what did you suppose to be the reason? did you blame the men for that?—I did not give it a thought, and I was so immediately afterwards wounded, I had not an opportunity. I was only surprized at the act of the men, without knowing from what it arose.

Did Colonel Quintin's horse appear to be in good con-

dition, or in what condition ?—I should say in very good condition.

Lieutenant Eversfield again called in.

The evidence given by Lieutenant Eversfield yesterday was read.

Examined by Colonel Palmer.

When you looked back and saw Colonel Quintin did it appear to you that his horse was distressed ?—Certainly not.

Did he appear to have him in hand ?—He did.

Did you consider at the time that the men whom Colonel Quintin brought on, did not come on so fast as they might have done ?—Certainly.

Did you make any observations on it at the time?—No, I did not; but Lieutenant Fitzclarence made an observation to me shortly after, that he was astonished at the conduct of Colonel Quintin.

Judge Advocate General. That we cannot take, but only that an observation was made, which shewed that it was impressed upon the mind of the witness.

Colonel Palmer. What did you conceive to be the reason for the men's not coming forward ?—Their being kept back by Colonel Quintin.

Judge Advocate General. Do you think that is evidence, Colonel Palmer ?

Colonel Palmer. My reason for asking the question is, that I should be sorry it should go forth as the fault of the men. Captain de Grammont came and told me what Mr. Fitzclarence had said, upon which I called Mr. Fitzclarence, and said, " whatever you think, hold your tongue upon the subject." I was sure it would have a bad effect upon the men, that they should be supposed to have kept back.

Judge Advocate General. My objection is founded upon a very different ground to the possibility of the Court admitting that as evidence.

Colonel Palmer. Here is a statement that the officers did complain.

Judge Advocate. It is my duty to state to the Court how it strikes me as a point of evidence : if you will put the question, I will take the sense of the Court upon it.

Colonel Palmer. I will not press the question ; I will put another.

Major Gen. the Hon. G. De Grey. There is nothing appears to shew any backwardness upon the part of the

men, and therefore I should think the question unnecessary in that view; there is nothing in my mind to shew, through the whole of the operations, that there was any backwardness upon the part of the men.

Judge Advocate General. There are some very strong points in evidence which shew the reverse, for the last witness has said, that they were asked whether they were ready to charge again, and that they not only answered yes, but that the rear division were waving their swords with an impatience to proceed.

Colonel Palmer. I should only be sorry that the men should receive the impression that the officers were of opinion that they were not willing to proceed. I will put another question. You were at the affair of Moralles?—I was.

What squadron was in advance at that time?—The right squadron, consisting of Captain Harding's and Captain de Grammont's troop.

How did that troop behave upon that occasion?—They could not behave better.

Did not the horses go over much more ground on that day, previous to the charge, than on the day after the battle of Orthes?—Yes, certainly; the distance the horses galloped that day must have been five or six miles without interruption, over heavy ground, from the commencement of the charge, to the end of the pursuit.

Who commanded you on that day?—Col. Robarts.

Colonel Robarts was major at that time, was not he?—Yes, he was.

Was he not promoted to the rank of lieutenant-colonel in consequence of the charge on that day?—He was.

Were any of the rest of the regiment engaged?—The centre squadron, Captain de Grammont's squadron; those were the only squadrons of the regiment that were engaged; the right squadron went into action first; the centre squadron came upon the left of the right squadron, after the enemy went about.

Who charged with the right squadron?—Colonel Robarts, Captain Harding, Captain Gordon, myself, Lieutenant Seymour, Lieutenant Fitzclarence and Lieutenant Wombwell were in the right squadron.

Judge Advocate General. Colonel Palmer's object in asking to this, is in part to get rid of any painful impression that might have been excited in the minds of the men or others; but I would submit to the Court

whether this is not as full as any thing can be; it can have no reference to our proceedings, but is produced with that feeling I have stated, which is a very honourable feeling: in the first place, it does appear that these soldiers behaved most gallantly and admirably in this affair of Moralles; it appears also, that in the skirmishes on the day of the charge, they behaved most gallantly, and that they shewed a great eagerness to come on to the second charge; and it appears most distinctly that they received an order to keep their horses in hand, and not to blow them. I think, that after such evidence, no mind can be so distorted as to fancy that there was the least indisposition on the part of the men: there is not only negative evidence disproving any indisposition, but the affirmative is here proved as well, which is not always the case.

Colonel Palmer. I mean to prove that on the 28th of February, the officers charging were in the front, and Colonel Quintin was in the rear; I mean to prove that on the day referred to by the witness, Colonel Robarts was in the front, and led the officers to the charge: the Court will judge how far that is material, and direct me as they think proper.

Judge Advocate General. If Colonel Palmer thinks it important, I see no objection that it is my duty to urge to the Court upon it; but I think the Court would not determine the duty of an officer from any particular precedent; that is, that it was his duty to be in one place to-day, because another officer was in that situation on another day. I should think the Court would judge as to the situation in which the officer should be, and not be led by such a precedent, and presume that he ought to be in a particular place, because the commanding officer was in a particular place in the affair of Moralles.

President. It appears to me unnecessary to the proper decision of the Court.

Colonel Palmer. I hope the Court will excuse me, but I do feel it necessary to have that question answered, whether Colonel Robarts led the squadron?—He did.

Colonel Palmer. I hope before this court-martial is closed, that the Court will have seen that I do not press that improperly. Was not General Grant with you?—He was; he commanded the brigade, and also charged with us.

Cross-examined by Colonel Quintin.

State the date of the affair of Moralles?—The 2d of June, 1813.

Were the horses in the same condition at Orthes, as at Moralles?—No; they were in a different sort of condition, having been at Morales before the engagement, constantly fed on green corn, and therefore, more likely to be blown, than they were at Orthes; they were fatter also.

President. And not so serviceable?—No, they were not.

Colonel Palmer. When you say they had green corn, do you mean that they had not dry corn also?—We were allowed an additional quantity of green forage, in lieu of corn; the corn was in the ear, in fact.

Colonel Quintin. Had not the horses been living during part of the interval between the affair of Moralles and the battle of Orthes on furze, and very inferior food?—They had.

Colonel Palmer. I would just ask one question: state what was the condition of the horses at the affair of Orthes.—They were in very good working condition, certainly in a better state to gallop any distance than at the affair of Moralles.

You do not mean to state, that they were in bad condition at Moralles?—No, they were not.

Judge Advocate General. They could not be if they galloped six miles?—No; we all remarked at the time, what an astonishing thing it was, for them to keep up as they did.

Major General Robow. You were astonished at their keeping their pace for such a distance?—Yes, we were.

Lieutenant Seymour sworn.

Examined by Colonel Palmer.

Do you remember when the centre squadron was stopped by the volley fired from the infantry, the day after the battle of Orthes?—I was with the centre squadron on that day; there was a volley from infantry on the side of the road. I belonged to the right squadron.

Where were you, when the volley took place?—I was with the centre squadron.

In front of the centre squadron?—No; about the second division.

Did you see the divisions put about?—Yes, I saw the leading division put about first.

Did you observe Colonel Quintin at that time?—Yes, I did, on the left flank of the leading division of the second squadron, giving some orders.

Colonel Palmer. I wish to say a word, with respect to what took place yesterday, on a question I put to Colonel Elley. When I wished to know his opinion, where a commanding officer should be, when the regiment was in column, it was objected to by the Court, on the ground that the officers———

President. Every member of the Court must be aware, that the situation of a commanding officer must depend upon circumstances, of which he only can be judge.

Colonel Palmer. Then I should wish to take the opinion of the Court. I think it material to have the opinion of Colonel Elley upon such a subject. I understood, from the Judge Advocate, that there was no objection to the question; but only, whether it was necessary. One honourable member of the Court stated, that there could be no doubt, that when the regiment was advancing, the commanding officer's post was in front, and never in the rear.

Major General the Hon. T. Mahon. No, I did not state that it was never to be in the rear.

Colonel Palmer. What was stated, does not appear upon the minutes of the Court, and, therefore, I should wish very much to have the question answered by Colonel Elley—When a regiment is advancing in column upon the enemy, where do you conceive is the post of the commanding officer, and where should you expect to find him, if you wanted him?

President. In your situation, I should ask Colonel Elley this question: As you have acted for so many years, in the capacity of adjutant general of cavalry, in the Peninsula; when a regiment is in column of divisions, and advancing near the enemy, where would you go to look for the commanding officer of that regiment, to communicate or to receive orders from him?

Colonel Palmer. I think that question would be quite sufficient.

Judge Advocate General. I think that will remove the objection which I felt to the question proposed yesterday, making the information much more local.

Colonel Elley again called in.

Examined by Colonel Palmer.

As you have acted for so many years in the capacity of adjutant general of cavalry in the Peninsula, when a regiment is in column of divisions, and advancing near the enemy, where would you go to look for the commanding officer of that regiment, to communicate, or to receive orders from him?

Colonel Elley. May I beg to ask, whether it is intended I should consider the regiment so advancing, as in an enclosed or an open country?

Colonel Palmer. In an enclosed country, upon a main road.

Colonel Elley. In presence of an enemy?

Colonel Palmer. Advancing in pursuit of an enemy; pressing an enemy.

Colonel Elley. Had I orders to deliver, I should expect to find the officer in command of that regiment with the leading squadron.

Judge Advocate General. Do you make any distinction between having orders to deliver, or orders to receive; for that is the end of the question?

Lieutenant General Houston. He cannot have orders to receive; that should be struck out.

Colonel Palmer. I should wish to ask Colonel Elley the reasons why the commanding officer should always be to the front?—I should conceive the good of the service requires it; and that he may personally observe the good conduct of his corps, and be ready to take advantage of the enemy, by any attack which might appear to offer.

Are not skirmishers always in front of the column between the enemy and the column?—Unless they are called in preparatory to a charge.

When a column is retreating, and the enemy pressing upon it, the skirmishers between the regiment and the enemy, where do you conceive that the commanding officer should be?—I have ever considered the post of an officer in command of a regiment to be with that squadron, nearest to his enemy; for the same reasons, that I have stated in my former answer.

Had you an opportunity of observing the charge made on the 28th of February on the enemy?—I had a distinct view of it.

President. At what distance?—I should think half a mile.

Could you at that distance distinguish individuals?—Certainly not.

Colonel Palmer. Could you distinguish between the enemy and ourselves?—Perfectly.

Did you see them engage?—I cannot positively state that I saw them come in contact; but I observed that they were engaged.

Did the charge appear to you to be of that duration particularly to fatigue the horses?—I should consider it was not.

Colonel Palmer. I have finished on this charge with the exception of Mr. Fitzgerald: it is of no consequence; but I should wish only to know whether Mr. Fitzgerald made the observation stated by Mr. Fitzclarence. Can I ask him that at any other time?

Judge Advocate General. I should think so certainly. Where a witness has been examined, but does not appear to be in attendance at the particular moment he is wanted, the Court will receive his evidence at another time.

Colonel Palmer. As I find Mr. Fitzgerald is not come, I will proceed to the third charge.

The Third Charge was read.

Captain Fitzclarence called in again.

Examined by Colonel Palmer.

Were you present with the regiment on the day of the battle of Toulouse, the 10th of April?—I was.

With what squadron?—I was in the command of the left squadron. Major Howard commanded the two left squadrons, and I commanded the left squadron of the regiment.

Were you during the day opposed to any body of the French cavalry?—Yes, we were.

Were any orders given to charge them?—Yes, there were.

What took place on receiving the orders?—We advanced to charge them.

How was the regiment formed?—They were formed across the road; the left in front, they had been passing through the enemy's position; they were formed in division as we came upon the road, and we advanced to charge them: when we came within a hundred yards of them, they went about.

Did you overtake them?—We did not.

State why.—We followed them up, and on a rising

hill, as we came near the top of it, we came under a heavy fire of the enemy's infantry, and we halted.

Did Colonel Quintin lead you on up to the period of the halt?—Yes, he did.

Did he remain in front?—No, he did not.

When did you miss Colonel Quintin from the front?—The moment that I found the regiment halted under the fire, I looked for my commanding officer, and found him gone.

How close was the firing to you?—About eighty yards.

Major Gen. the Honourable G. De Grey. Were they in front of you?—Yes, they were in front of us, upon the road up the hill.

From whom did you receive orders after this?—From Lord Edward Somerset.

Who commanded the squadron?—Major Howard.

What steps did Major Howard take?—He spoke to me, and wanted to know what to do.

Do you recollect the exact words he spoke?—Yes, he said, what shall we do now, or to that effect.

What answer did you make him?—I said, if we remain here, we shall do no good, and we shall get wounded, or get killed, and lose our men.

What steps were taken upon that?—I believe I recommended sending to Lord Edward Somerset for orders.

Who went?—Lieutenant Wyndham, Major Howard sent him.

Were you wounded previous to Lieutenant Wyndham's return?—No, I was not, before he returned; it was about that time I think.

In what way were you wounded?—I was shot through the thigh with a musket ball.

Were any men or horses wounded previous to your being wounded?—Two horses were shot.

After being wounded, did you go to the rear?—I passed to the rear immediately.

You stated that Colonel Quintin was in front at the time you first received the fire?—Yes, the moment before we halted he was there.

You did not halt till the fire began? Brigade Major Jones, who was in front, said, "Halt, there is infantry at the brow of the hill." We got close to them before we could halt, and they continued an irregular firing upon us.

Did Colonel Quintin come to the front previous to

your going away after being wounded?—No, I did not see Colonel Quintin near after that; he did not certainly.

How long, to the best of your recollection, were you under fire previous to being wounded?—Seven, eight, or ten minutes perhaps; I cannot exactly state the time.

What was the description of firing?—It was an irregular firing.

Cross-examined by Colonel Quintin.

Was not Colonel Quintin close or near to you at the time of your being wounded?—I did not see him.

Are you certain that Colonel Quintin did not desire you to go to the rear to be dressed after you were wounded?—On my way down the hill he might; but after being wounded, I really cannot say, for I was in considerable pain, and to a certain degree, lost my head. I might have seen him in going down the hill, but certainly not in front.

Major General the Hon. G. De Grey. Where did you suppose Lord Edward Somerset to be when you proposed to send to him for orders?—To the rear; I did not exactly know where.

Had he been with your column at any period near that time?—Yes, he had.

President. Did you lose any men?—We did not lose any men at that time, only horses.

Colonel Palmer. Would you have recommended Major Howard to send to Lord Edward Somerset, if you had known of Colonel Quintin being near the spot?—I recommended his sending to Lord Edward Somerset, thinking him the most proper man.

Would you have taken upon yourself to give that recommendation, if you had conceived Colonel Quintin to be near the spot?—I should have recommended nothing in that case; the application would not have been made to me.

Colonel Quintin. Was not Lord Edward Somerset in front of the division, when it went up the hill towards the enemy?—Yes.

Lieutenant Charles Wyndham sworn.

Examined by Colonel Palmer.

Were you with the regiment when it was ordered to

charge a body of French cavalry on the road from one of the gates of Toulouse?—Yes.

Did you charge them?—No, we did not.

Did you follow them?—Yes, we did; the French cavalry retired over the hill as we came up to them.

What stopped you?—The French infantry coming into the road and firing upon us; we halted then.

At the time you were stopped by the fire, was Colonel Quintin in front?—Colonel Quintin was in front at the time, immediately before the fire. I looked round shortly afterwards and missed him.

Was Major Howard to your front?—Yes, he was.

Do you recollect any conversation that passed between Major Howard and Captain Fitzclarence, in consequence of Colonel Quintin's absence?—Immediately after my missing Colonel Quintin, I heard Major Howard say to Captain Fitzclarence, "What shall we do now?" and Captain Fitzclarence said "We are in an awkward situation," or something to that effect.

What did you do after that? Did you get any orders from Major Howard?—I was ordered to go down to Lord Edward Somerset, to receive orders, which I did, and then returned to the head of the squadron.

Major General Buller. Who ordered you to go to Lord Edward Somerset?—Major Howard.

Major General the Hon. G. De Grey. Where was Lord Edward Somerset?—He was on the left of the road, about sixty yards from the head of the squadron; I cannot speak exactly to the distance.

Colonel Palmer. Did you find Colonel Quintin to the front when you returned?—No, I did not.

You remember Captain Fitzclarence being wounded?—Yes, he was wounded directly after I returned with the orders.

Major General Rebow. On your way to Lord Edward Somerset, did you see Colonel Quintin?—No, I did not see him; I do not recollect it.

Major General the Hon. G. De Grey. You did not go down the column to Lord Edward Somerset?—Yes, I went down on the left of the column.

He was in the rear of the column?—Yes, he was outside the road.

Cross-examined by Colonel Quintin.

Of what proportion of the regiment did the column consist?—I did not observe any more than a squadron in front. I believe the whole of the regiment was out.

Re-examined by Colonel Palmer.

When did you first see Colonel Quintin after Captain Fitzclarence was wounded?—I do not remember seeing him any more that day, till we marched off at night to our quarters.

Major General the Hon. G. De Grey. What orders did you receive from Lord Edward Somerset?—To the best of my knowledge, that we were to remain there as the 6th division was moving round.

To whom did you deliver those orders?—To Major Howard.

Who executed them?—Major Howard.

Lieutenant Seymour called again.

Examined by Colonel Palmer.

You remember the day of the battle of Toulouse?—Yes, perfectly.

Do you remember in what manner the regiment was formed at the time the 6th division attacked the enemy?—It was led up in column, the left in front.

Where were you?—Commanding my division on the left squadron, Captain de Grammont's troop.

Do you remember the circumstance of a volley being fired on the regiment by the French infantry?—I recollect the circumstance of a firing.

Did the firing induce you to leave your division and go to the front?—Yes.

Was Colonel Quintin there?—I passed him going to the rear on the left flank.

Colonel Palmer. I have closed the evidence upon that charge. With respect to the evidence on the fourth charge, Sir Stapleton Cotton, I find, does not come to town till to-night. I have informed Sir Edward Pakenham, we could not do without his attendance. I only wish for him to prove the letter of Lord Wellington, and I inclosed your summons, stating that it was desired, on the part of the defence, that he should attend. I informed him, that if he was here by the 19th, that would be sufficient.

Judge Advocate General. I think the Court will feel

no great difficulty in postponing entering into this charge till to-morrow, in consequence of the absence of particular witnesses, if Colonel Palmer feels that those witnesses are necessary in the outset of the charge. If there is any preliminary part of the charge that Colonel Palmer can go into, of course he will do so.

Colonel Palmer. I will go into the rest of the charge. I merely want Sir Edward Pakenham to prove the letter referred to in the charge.

Judge Advocate General. With respect to the letter referred to in the charge, Colonel Palmer stated to me, that the only reason he had for desiring the attendance of Sir Edward Pakenham from Ireland, was to prove that letter. The only answer I could give to him, was, that if the letter was not admitted, it must be proved; and that if the letter was not admitted, I feared Sir Edward Pakenham must have the trouble of coming. It seemed afterwards, that the letter was not admitted, and therefore it was necessary to send off a letter, requesting the attendance of Sir Edward Pakenham. The only mode in which the Court must proceed, therefore, is, to wait till he comes to prove the letter, or (which must depend upon what Colonel Quintin is advised to do,) to receive the letter, subject to what may be proved afterwards, leaving it till Sir Edward Pakenham comes to prove it; that would enable the Court to proceed in the case.

Colonel Palmer. Then there can be no doubt I shall be able to proceed to-morrow morning, as Sir Stapleton Cotton will be here to-night.

Major General Buller. The letter was addressed to Lord Edward Somerset?

Colonel Palmer. Yes, it was.

Major General Buller. Then he can prove it.

Judge Advocate General. I am now informed the authenticity of the letter will not be disputed by Colonel Quintin.

Colonel Palmer. I understand from Mr. Harrison, that he wishes to know how I mean to proceed on the fourth charge. After having first put in the letter of Sir Edward Pakenham, and Sir Stapleton Cotton's order, I propose to bring forward the captains and some other officers of the regiment, (I do not exactly know what officers,) to prove that Colonel Quintin did not support them in the execution of their duty: of course

I must call upon them to state particular instances; but I should wish to state to the Court, that on being ordered to conduct this prosecution, I called the officers together, being obliged to send in the charges as soon as possible, and requested them to state the instances; for the letter of the Duke of York directed that I should specify dates and facts. With respect to the previous charges, they could fix the dates with certainty; but with respect to this, the officers said, though they could remember instances of Colonel Quintin not supporting them, as to many of those facts, they had not charged their memory with the date, and as to some of them, that they could now hardly call to mind the particular facts, nor what occurred to them at the moment; therefore, under these circumstances, I wrote the charge in the way you have received it, and as no objection was made to that charge, I have taken very little pains to ascertain farther, and have only desired the officers to refresh their memory, so as to give the best explanation they could on the subject.

President. You have done the best you could, I am sure.

Judge Advocate General. I will state to the Court, for the sake of both parties, and as much for Colonel Palmer's satisfaction, as that of any other person, in order that he may receive the direction of the Court, to what extent I conceive this letter may be used. There can be no doubt the letter may be put in, if authenticated, or if it is acknowledged to be original, which I understand now it is, consequently the letter will stand upon the proceedings. But I think Colonel Palmer should understand what is the view of the Court, as to the extent to which the letter can be received as evidence. It is well known by every body, that in the case of charges brought before a court-martial, they are not bound to the technical formalities which prevail in other courts of law; but there is this essential principle in every charge before any court that can exist in the civilized world, that the charge should be sufficiently specific to enable the person accused to know what he is to answer, and to enable the court to know what they are called to enquire into. The charge as it stands, is expressed in this way, " for general neglect of duty, by allowing a relaxed discipline to exist in the regiment under his command, when on foreign service, by which

the reputation of the regiment suffered, in the opinion of the commander of the forces, and of the lieutenant general commanding the cavalry: their displeasure having been expressed or implied in a letter from the Adjutant General of the forces, addressed to Major General Lord Edward Somerset, commanding the Hussar Brigade, dated on or about the 29th March, 1814, and in the orders of the Lieutenant General, commanding the cavalry, dated the 26th February, 1814." These two documents being referred to, I take it, that in the first place, the Court will decide for what purposes they can be used. I conceive they would be extremely good evidence, when authenticated, to prove the fact that such letters were written; but that they would be no evidence of their own contents, and that they would be no evidence of their own contents, for this best of all possible reasons, that they would neither be on oath, nor liable to cross-examination: therefore any facts stated in those letters, whatever may be the facts, will not stand in proof, merely because the letters are put in, but they must be supported by parol evidence on oath. That I state as to the use of the letters themselves upon the proceedings.

Then I would look further to the necessity of producing those letters; for it may occur to some persons that the use of the letters is very much diminished. The great use of the letters is to furnish the specification of the charge itself: because nothing could be more vague, and nothing could leave the Court itself and the party accused, more at a loss to know what the charge was, than the commencement of this charge, namely—"For general neglect of duty, by allowing a relaxed discipline to exist in the regiment under his command when on foreign service." That would lead to no one point; it would be quite impossible that any person should be sufficiently informed by this to defend himself against any particular charge brought forward, or that the Court should know the range they were to take in this enquiry: therefore I apprehend these letters are intended as a limit to the generality of this charge, and consequently that no facts, not referred to in those letters, could be adduced in evidence upon this charge; that is, that the charge of neglect of duty from want of discipline is referred to and explained by these letters themselves. I have seen the letters, but I cannot charge my memory with the

contents of them; but it has occurred to me that a third case may arise, which is this, that the letters themselves are not very explicit as to the facts on which they are founded. Then to look to these letters by way of fixing precisely the facts, would be looking for that which is not to be found. The Court, then, must deal with that as well as they can; but if they refer the first words of this charge to these letters for explanation, no facts which have taken place subsequent to the date of those letters can be received; for they cannot be referred to by them. Whether that will be the only boundary that can be drawn I do not know; but if that is the limit, and that nothing is to be conceived proved by the production of these letters, without parol evidence, the Court will then be to judge as to the nature of the parol evidence to be brought forward, taking into their consideration the apparent novelty of the proceeding, and the means Colonel Quintin may have of defending himself against the facts that may come out upon the examination;—but I think the Court will agree with me thus far, that the letters will not prove their own contents, and in the next place, that the letters must be adhered to, as a specification of the charge before the Court; that nothing can be given in evidence which passed subsequent to the writing of those letters, shewing the unfavorable impression made on the mind of the Duke of Wellington and the commanding officer of the cavalry. I was the more anxious to state this, because I did take an opportunity of stating to Colonel Palmer, when he wrote to me to know how the place of Sir Edward Pakenham was to be supplied, that the letters did not prove their own contents. If I was wrong in that, I may have misled Colonel Palmer; if I was right, I think it is desirable that that should be confirmed by the authority of the Court.

Colonel Palmer. I do not conceive that we have any thing to do with those letters: it may be for Colonel Quintin to call upon the Adjutant General to prove the facts he has stated. The charge is, "for general neglect of duty, by allowing a relaxed discipline to exist in the regiment under his command when on foreign service, by which the reputation of the regiment suffered in the opinion of the Commander of the forces, and of the Lieutenant General commanding the cavalry; their displeasure having been expressed or implied in a letter from the Adjutant General of the forces, addressed to Major

General Lord Edward Somerset, commanding the Hussar brigade dated on or about," and so on.

Major General Buller. It is a charge of general neglect of duty, from the time the regiment embarked till the return, without limit.

Colonel Palmer. So I conceive. I do not see that we have any thing to do with the facts upon which those letters were founded, and how can we prove them. We did not make the complaints of those excesses that called for the censure of Lord Wellington: the complaints were general against the regiment; but we are to justify ourselves from the charge of general neglect, and the supposition of having merited the threat of being sent into bivouac, by proving that if Colonel Quintin had kept up the discipline of the regiment, the men would not have committed those excesses. I wish to know whether we are to prove the facts that the Adjutant General complains of. All I can do is to prove the conduct of the regiment, and the conduct of the captains in supporting the discipline of their troops. I do not intend to come forward as an evidence, or I could prove instances of houses plundered; but how difficult a thing would it be to prove such things by legal evidence, for you must call the inhabitants forward, to prove they were plundered and pilfered, and so on.

Judge Advocate General. I am afraid I was not understood by Colonel Palmer. I rather believe he comes pretty nearly to the conclusion I do. Suppose the letters state no facts, but generally express displeasure: the letters are proved by being admitted before the Court. If the letters contain facts, then I say the circumstance of the letters containing those facts, does not prove those facts; but if you mean to establish those facts before the Court, you must establish them by evidence upon oath, and not merely because they are contained within the letters: that appears to fall directly within the view Colonel Palmer has taken.

Major Gen. the Hon. G. De Grey. But does Colonel Palmer mean to confine himself to the facts contained in those letters?

Colonel Palmer. There are no facts stated in those letters. All we have to do is to prove the relaxed discipline.

Major Gen. the Hon. G. De Grey. Then what have those letters to do with it?

President. You stand in a very unpleasant situation, to prove the facts onwhich the general reprehension the regiment has met with are founded; you are to state the facts which you do not know possibly, on account of which the regiment has received this severe admonition from the Commander of the forces.

Judge Advocate General. I take it this would be a perfectly regular course. You put in the letter containing the reprehension from the Commander of the forces, supposing the letter states no facts, it is an immediate presumption from that, that something has been committed by the regiment which has called for such a censure. Then the prosecutor will content himself with stating such acts of general mismanagement of the corps, antecedent to the date of the letter, as would justify such a reprehension; and then the fair inference is, that that reprehension is drawn from those facts, or if it is not, then the *onus probandi* lies upon the other party to disprove it.

Colonel Palmer. I will prove every thing that I can. I will call the officers. I wish the Court to examine them, and they will see what they prove; but if they do not prove a word of what the Adjutant General refers to, that is nothing to us: all the inhabitants might not have come to us; they might have gone at once to the commander in chief, they might have been few, or they might have been many.

President. The inhabitants who were injured would never go to the party who injured them to make the complaint, they would go to the commander, I should think.

Judge Advocate General. All I propose to the Court is this:—The regiment feel themselves under a cloud in consequence of these letters, that is the reason for their wishing to set themselves straight in the public mind: these letters are admitted, and must have been founded either upon facts, or if not founded upon facts must have been founded upon misrepresentation. If on the part of the prosecution you prove any facts, shewing the want of proper care of the regiment, so as to throw the regiment into a state of indiscipline, it is fair to presume that they were the facts which called for reprehension. If you prove that up to this time the regiment was in a most excellent state of discipline; and no one fact is proved from which the reverse can be inferred, then the

judgment of the Court would be that the Duke of Wellington was misinformed as to the facts upon which that censure was founded; and therefore as the burthen that is felt by the regiment seems to have arisen from the notoriety of these letters, I should conceive that any fact of indiscipline that may be brought forward, or any facts of disorder of the regiment proved, in order to remove that impression which the letters have made, must be antecedent to the date of those letters.

Major Gen. the Hon. G. De Grey. As the charge stands I think the facts are confined to that period.

Colonel Palmer. The orders of Sir Stapleton Cotton were matter of notoriety, and there were repeated orders; but this was a particular order, the one I have inserted. With respect to the letter, we knew it was written; but the reason for the officers coming forward was the censure conveyed upon the regiment by Lord Edward Somerset: that letter was not shewn to the officers. I suppose it was shewn to Colonel Quintin; but the censure was passed upon the whole of the officers by Lord Edward, and that was the reason of their coming forward.

Judge Advocate General. What I meant was not notoriety publicly, but to the officers of the regiment: if this had been kept a perfect secret from them, they could not have been hurt by it; but it was in consequence of its being known, that they called for a public investigation of their conduct, and wished to shew that the regiment was either not in a state of indiscipline, or if it was, that it was not their fault.

Colonel Palmer. A copy of this letter was sent to Sir Stapleton Cotton, and different officers have seen the letter.

Judge Advocate General. Colonel Palmer having stated that the feelings of the regiment have been excited by the existence of this letter, it is quite clear that that date is the pith of the charge: they desire to relieve themselves from any pressure from this letter, and that the relaxation of discipline may attach where it ought; but that relaxation of discipline must have been in existence antecedent to the date of this letter, for the letter cannot have been written by anticipation: therefore any facts subsequent to the date of that letter, could have no reference to the date of that letter.

Major Gen. the Hon. G. De Grey. No, not as the charge stands.

Colonel Palmer. Will the Court give me leave to explain myself with reference to that? The charge is, "for general neglect of duty, by allowing a relaxed discipline to exist in the regiment under his command when on foreign service." My intention in that was to prove the want of discipline during the whole period of foreign service.

Judge Advocate General. But previous to the date of that letter.

Colonel Palmer. I did not so conceive when I framed the charge.

Judge Advocate General. But then you go on to say, "by which the reputation of the regiment suffered in the opinion of the Commander of the forces, as appears by a certain letter:" that could refer to facts antecedent to the date of that letter certainly, or they could not be referred to in that letter.

Major Gen. Dilkes. Perhaps the Court had better be cleared, to form their own judgment on their course of proceeding.

Judge Advocate General. I think we had better first consult the views of Colonel Palmer, and of the officer who is on trial, before the Court decide. Certainly the pith of the charge seems to be this, that the regiment suffered in the view of the general commanding in the Peninsula; and that, in consequence of having so suffered in his opinion, it suffered in the view of the world at large; that I take to be the real motive of this charge: then these letters are to be put in to prove that it did so suffer in the opinion of Lord Edward Somerset and the Duke of Wellington: the letters will prove that; but the letters will prove no further: then the officers of the regiment are anxious to shew that however it might have so suffered, as it has done by the production of these letters, it was not their fault; then in order to prove that, the relaxation of the state of discipline being the thing complained of, they will prove that any facts of indiscipline which occurred were not through their fault, but the fault of the commanding officer, who was present, and on service at the time. It would then necessarily follow, that those acts, not perhaps those alone, but those and others attached to them, were the grounds for the writing of this letter: and that is all that the Court

will call for; and that is all, as I apprehend, that the real view of the charge leads to: for as to putting in evidence any acts of indiscipline or relaxation of discipline which occurred subsequent to the date of this letter, those cannot have produced this intimation of the commanding officer of the forces; from which intimation of displeasure has arisen that feeling, as the officers of the regiment seem to think, of depreciation of their services.

Major General the Hon. G. De Grey. If other facts are to be referred to, this latter part of the charge should not be here.

Colonel Palmer. In whatever way you wish it to be, I will accede to it; but it is necessary for me and my brother officers to prove we have done our utmost.

Major Gen. the Hon. G. De Grey. If you are to enter into any matter subsequent to the letters, it ought to be made the subject of another charge: it cannot be entered into upon this charge.

Col. Palmer. The words I have inserted here are, "during the period of foreign service." What I meant by that was, to take in the whole of Colonel Quintin's conduct during the period of foreign service; and if I can bring forward any facts subsequent to the date of these letters, I should have thought I was at liberty to do so.

Major Gen. the Hon. G. De Grey. Then I think these words should not have been inserted as to the letters.

Col. Palmer. It is not of consequence. I think I have sufficient evidence without it; and I had rather than the Court should be cleared upon it, give up the point, and be understood to confine myself to the period antecedent to that date. If in the course of the evidence any officer brings out any facts not coming within that line, I cannot help it.

Major Gen. the Hon. G. De Grey. There can be no objection to the court being cleared now we have heard Colonel Palmer's views upon the subject.

Lieut. Gen. Sir Samuel Auchmuty. I think there is not any necessity for clearing the court, unless Colonel Palmer should adduce any evidence of facts subsequent to those letters.

Major Gen. the Hon. G. De Grey. But it may be better to have an understanding previous to commencing, than to have any difficulty when we are in the evidence.

Judge Advocate General. If I understand Colonel

Palmer right, there can be no necessity, nor would it be expedient to clear the court; for that very act would carry with it an impression that there was a difference of opinion, which does not exist, in the minds of the Court, or a tenacity on the part of Colonel Palmer, which made it necessary for the court to be cleared to form its opinion. I think the Court must have seen that tenacity does not appear on the part of Colonel Palmer.

Major Gen. the Hon. G. De Grey. Certainly.

Lieut. Gen. Sir Samuel Auchmuty. And therefore I am desirous of not clearing the court.

Judge Advocate General. Colonel Palmer himself consents that whatever facts are produced shall be antecedent to the date of these letters. The state of indiscipline of the regiment complained of, is that which called for the expression of displeasure of the Commander of the forces; that can have been conveyed only by this letter, and therefore the facts to be adduced must be antecedent to the date of the letter. Colonel Palmer has stated very fairly that when he drew the charges that was not his view; that he meant to bring evidence of any neglect during the whole of the foreign service. I think it will not surprise the Court that Colonel Palmer, called upon as he was, should form the opinion that he might give that evidence. The charges were afterwards sent to me to judge whether, in the shape in which they were drawn, they could be brought before the Court; for I am not consulted as to the merits of the charges, that is, whether they can be proved or not; but only whether the accusation is brought into such a shape as can be investigated by the Court. I have a great disinclination to suggest even the alteration of a word in any charge that is laid before me, if it is possible that that charge can be legally brought before the Court as it is framed by the prosecutor; and in giving my assent to the propriety of bringing forward this charge, it was with this view, that as every charge has something of specification to it, that was furnished by a reference to these letters, that they formed the date of the acts that were complained of, if they did not introduce the facts themselves; that of course will depend upon the reading of the letters. That was my view of it, and that was the reason of my assenting to the charge as it was drawn, or I should have stated that the facts must be alledged particularly. As Colonel Palmer wishes rather to gain the opinion of the Court than to follow his own opinion, the opinion of the Court be-

ng expressed, there can be no further misunderstanding upon it.

Col. Palmer. I only wish to impress upon the Court, that what I have stated is not an after-thought on my part, but the impression upon my mind at the time. General De Grey says, I might have drawn another charge, and I could have done that certainly, but I conceived it to be all included. I cannot bring to my mind exactly what the dates are. I know the general nature of the thing, and I have no doubt of the evidence the officers will give; but just about the time of this letter, as nearly as possible, another squadorn came out to the regiment under the command of Colonel Robarts, in excellent order, and which very soon became in as bad order as the rest; and I should wish to call the officers of that squadron to prove that fact. I am not perfectly aware whether the distinction which is taken will prevent their giving that evidence; but I shall be happy to confine myself to that period within the letters.

President. That appears to me to put an end to every difficulty. It is obvious to me that a squadron which was not upon the continent when the severe reprehension was issued by order of the Commander in chief, could not be referred to in any reprehension that was conveyed by the Commander in chief.

Col. Palmer. To-morrow morning, if the Court please, I will proceed with the evidence.

President. Colonel Palmer wishes that he should have till to-morrow morning to enter upon this fourth charge. As we seem to have made a material objection to any accusation extending beyond the period of those letters, which have been already referred to, I dare say the court will very willingly grant that indulgence to Colonel Palmer.

Col. Palmer. And the other reason is, the absence of Sir Stapleton Cotton: he will not arrive till to-night.

Major Gen. the Hon. G. De Grey. Will the hour of ten suit Colonel Palmer?

Col. Palmer. If the Court will make it eleven I shall be obliged to them; it will afford time for my seeing the officers, which I have not yet done, upon this particular subject.

Adjourned to to-morrow morning 11 *o'clock.*

FOURTH DAY.

Thursday, October 20, 1814.

The Fourth Charge was read.

Col. Palmer. I should wish, in the first place, to produce the order of the 26th of February, 1814, the cavalry order.

Judge Advocate Gen. This professes to be a copy: if this is admitted by Colonel Quintin, that is sufficient.

Mr. Harrison. That may be read; if we find any variation we will point it out.

The order was read as follows:

Cavalry Orders, 26th Feb. 1814.

Lieut. General Sir Stapleton Cotton regrets having occasion to state that many reports have lately been made of extreme misconduct in cantonments by some of the cavalry.

The civility shewn by the inhabitants of the country ought to meet with a return worthy of it. A contrary conduct, in frequent instances, cannot but be known to the officers, whose duty it is to exact of those under their orders an observance of good discipline.

The officers here alluded to cannot, however, realize whatever is expected of them, unless they have the support of officers in the command of regiments.

Lenity to those guilty of small offences tends too frequently to encourage the commission of offences of greater magnitude.

When the captain of a troop has occasion to represent the misconduct of individuals to the officer commanding the regiment, the latter must support them; otherwise the troop will of necessity become disor-

derly, the captain will lose his authority, and his zeal for the good of the service not unlikely to be diminished in the same proportion.

The Lieut. General hopes there will not be occasion to mention in orders the name of any regiment for misconduct in cantonments; but should it be repeated, the necessity of so doing will be called for, and the regiments mentioned will be ordered (every officer and man) into bivouac, and will not be allowed on any consideration to enter cantonments, to disgrace the cavalry service by theft and other depredations.

The Lieut. General has witnessed much irregularities in the march of the baggage of the Hussar Brigade, which calls for a reference to the Cavalry Orders, dated the 5th Sept. 1809. 1st Sept. 1810. and 14th March, 1812. An officer in the command of the baggage guard, must be rear of his command, to ascertain that all the baggage animals keep well up, and the rate of march must be regulated accordingly.

This order must be read twice at the head of each regiment, and twice a week at the head of each troop during the next month.

(Signed) J. Elley, Colonel,
Assistant Adjutant General.

Colonel Palmer. I would beg now to call Lord Combermere.

General the Right Honourable Lord Combermere sworn.
Examined by Colonel Palmer.

Your lordship commanded the cavalry in the Peninsula under Lord Wellington?—Yes.

Is this a copy of an order issued by your lordship to the cavalry? (*shewing the order to his lordship*)?—Yes, it is.

May I take the liberty of requesting your lordship to state to which regiment and commanding officer you meant this order particularly to apply?—That order was issued in consequence of the irregularity of the 10th Hussars, at or near Salice; the order was issued the day after.

The commanding officer at that time was Colonel Quintin?—Colonel Quintin commanded the regiment at that time.

Had not your lordship occasion to converse from time to time with the Major General in command of the

brigade, on the state of the 10th regiment?—I have conversed with Lord Edward Somerset.

Had your lordship an opportunity of observing the conduct of the regiment, previous to Colonel Quintin joining it?—Yes; that brigade was near me at Barens and Olitè; Major Robarts commanded the regiment.

What was your lordship's opinion of the state of discipline of the regiment at that time, under Major Robarts?—I do not recollect having any complaints of the want of discipline in the regiment under Major Robarts.

Does your lordship recollect the letter of the 30th of March, that was sent from the Adjutant General to Lord Edward Somerset?—Yes, I recollect receiving a duplicate of that letter from the Adjutant General.

Did your lordship speak to the Major General upon the subject?—Yes; I had a conversation with him upon the subject.

Will your lordship be pleased to state the instructions that you gave to Lord Edward upon that occasion?—I wrote to Lord Edward Somerset, and I had also a conversation with Lord Edward Somerset upon the subject. I desired Lord Edward would assemble the officers, and read that letter to them. I think I told him that as there was no amendment, or likely to be, in the 10th, that I should write home on the subject, stating that Colonel Quintin, from a bad state of health, or some cause, appeared unfit to command a regiment of light cavalry on active service; but the war being over a few days afterwards, I did not think it necessary to take any further notice. I cannot recollect the whole of the conversation; I said a great deal more to him.

Has not your lordship repeatedly expressed your dissatisfaction at Colonel Quintin's conduct in the command of the regiment to Major General Lord Edward Somerset?—I certainly had frequent occasion: and I always told Lord Edward, I thought Colonel Quintin was in a bad state of health; that probably it was owing to that; but that he did not appear fit to command a regiment of light cavalry on active service.

Judge Advocate General. I am sure no interruption will be given on the other side without occasion, and, perhaps it is not altogether necessary to make an alteration in the question, as the information might be got at in another way, though certainly the question is not quite regular.

Lord Combermere might be asked his opinion, but not what he stated to another officer: it would come to the same thing; but I state this to point out generally the way in which it strikes me that under this charge Lord Combermere's opinion of the want of discipline and the causes of it may be perfectly regular evidence. What Lord Combermere expressed to be his opinions elsewhere, unless Colonel Quintin was present, would not be evidence; but the same end will be attained in the way I propose, and it will appear more regular upon the minutes.

Lieut. Gen. Sir Sam. Auchmuty. It may be brought regular, by asking his lordship whether he retains the same opinions as he then expressed?

Colonel Palmer. Will your lordship state your opinion of the general conduct and character of the officers of the regiment, as far as you had an opportunity of observing them?—I had an opportunity of seeing a great deal of the officers of the 10th in quarters, and in the field; and I must say, I never met with a finer corps of officers; and I do not think there were ever officers better disposed or more zealous, or officers I should like better to command than the officers of the 10th Hussars: that was my reason for thinking still that it was not their fault, but the fault of the commanding officer, that the regiment was not in the high state of discipline which it ought to be latterly.

May I ask your lordship whether, in consequence of your order of the 26th of February, Colonel Quintin ever made any complaint to you of the conduct of the officers; or whether Lord Edward reported to you that Colonel Quintin had ever made any complaint to him of that nature?—No; I never heard of any complaint made by either Lord Edward or Colonel Quintin.

Does your lordship recollect my taking the liberty of waiting upon you to justify myself from the censure that was thrown upon the regiment by my Lord Edward Somerset?—After the Adjutant General's letter I remember your calling upon me one morning at Tournefuille near Toulouse, and I recollect your saying you hoped I did not throw any blame upon you or the other officers of the regiment. I do not exactly recollect the whole of the conversation.

Did I not state to your lordship the particular circumstances under which I was placed, which prevented my coming forward as I should have done, had I been in

any other regiment but that to which I belonged?—Yes; I do recollect your saying that certainly.

Did not your lordship approve the motives by which I was actuated, and promise to take an opportunity of making such representations as would render an appeal on my part unnecessary?—I believe I stated to you then, that if those irregularities went on, I should be obliged to write home upon the subject.

Did I ever complain to your lordship of Colonel Quintin's conduct in any respect, except as relates to the charge upon which you are now called?—No.

Cross-examined by Colonel Quintin.

Was the letter of the 30th of March a private or a public letter?—The letter to Lord Edward was public; what General Pakenham sent to me was a duplicate; that was in a private letter.

Col. Palmer. You considered the letter itself public; but the duplicate was enclosed in a private letter to you?—Yes, to the best of my recollection it came inclosed in a private letter.

Colonel Quintin. Had you any means of knowing whether the letter of the 30th of March was ever read to any other officers of the regiment except Colonel Quintin?—I desired Lord Edward Somerset would read it to Colonel Quintin and the officers of the 10th Hussars; that he would assemble them for that purpose; and I had reason to think Lord Edward Somerset attended to my directions.

Did you ever communicate to Colonel Quintin that you were not satisfied with his mode of commanding the regiment?—I do not recollect stating that clearly to him. I recollect on several occasions I have spoken to Colonel Quintin on not turning out his regiment quick, and not moving off his baggage in time; at other times I complained to the general officer commanding the brigade. I certainly spoke to Colonel Quintin more than once, in respect of the regiment not turning out quick enough, and not getting its baggage off in time. I frequently spoke to Lord Edward Somerset on the state of the regiment.

Major General Vicars. Did Colonel Quintin report his bad state of health to your lordship, or ever decline any duty on account of bad health?—I do not recollect Colo-

nel Quintin being reported unfit for duty; but he appeared to me not to be in a good state of health; and I attributed his want of energy more to that circumstance than to any thing else; and I had heard that he was in a bad state of health. That I may not be supposed to have said that behind Colonel Quintin's back which I did not say to his face, I wish to call to his recollection what I said to him about a league on the other side of St. Germe, where I spoke my mind very freely to Colonel Quintin on the slow turning out of the baggage, and telling Colonel Quintin how very ill the regiment was commanded, how long they were performing the duty, and how very much displeased I was with his conduct. As Colonel Quintin chooses to put that question to me, I must answer as to every thing I recollect on that subject: the regiment was not very alert; but that which I then spoke about was the slow turning out of the baguage.

Major General the Hon. G. De Grey. I wish to put one question relating to the other two charges, before Lord Combermere retires, when the evidence on this charge is concluded.

Colonel Quintin. Did not Colonel Quintin then state to you, that the regiment was very much dispersed, and the roads very bad, on the day you allude to?—I recollect Colonel Quintin making an excuse, but I deemed it an insufficient one: other regiments, which were in a similar situation, both then and before that, turned out a great deal quicker; and I thought no previous arrangement had been made by the commanding officer for the turning out of the baggage: they did not know where to go; they were going different ways, and might have been taken by the enemy; there had been no previous arrangements made by the commanding officer of the regiment, to whom I looked. I conceive there was no sufficient reason why the baggage should not have been in its proper place at the time I expected it.

Major General the Hon. G. De Grey. Did you witness the operations of the 10th Hussars on the 28th of February and the 10th of April last, when engaged with the enemy?—I could not particularly attend to the 10th Hussars, or to the commanding officer, so as to give an answer; the officer commanding the brigade would best answer to that.

Did you observe any misconduct on the part of Colonel Quintin in the command of his corps on those days?—

There were a great many regiments there; I could not possibly observe the conduct of the officer commanding any particular regiment; the officer commanding the brigade would be best able to answer that question. I can only say, Lord Edward did not report any misconduct on the part of Colonel Quintin to me on those days.

Lieutenant General Sir Samuel Auchmuty. Lord Edward Somerset was the channel of communication to Colonel Quintin, and therefore you did not speak to him personally upon the complaints made to you?—Certainly; Lord Edward Somerset was the general channel of communication.

President. You did not particularly observe the conduct of Colonel Quintin on the two days referred to by the question; nor was any complaint made to your Lordship by Lord Edward Somerset of his conduct?—Just so.

Judge Advocate General. You will now, I suppose, put in the letter of the 30th of March.

Colonel Palmer. Yes, this is it (*producing it.*)

Judge Advocate General. I will just hand it over to the other side, as it is a copy, to see whether they admit it to be correct; or it may be shewn to Lord Edward Somerset.

Major General Lord Edward Somerset sworn.

Examined by Colonel Palmer.

Is this a copy of the letter your lordship received from the Adjutant General, dated the 30th of March, 1814? (*shewing the letter to his lordship.*)—I believe that to be an exact copy, to the best of my recollection.

The letter was read as follows:

Adjutant General's Office, Seyses, 30th March, 1814.

My Lord,

I inclose a charge, given in by an officer of the staff-corps, against Serjeant M. Robinson of the 10th Hussars, who appears to have been arrested by order of Lieutenant-Colonel Stovin, for allowing the soldiers under his charge to plunder the house of an inhabitant.

I have written to Colonel Stovin for the particulars of this instance of want of system and discipline in the 10th regiment; and should the evidence prove sufficiently strong to substantiate the charge, I shall beg of your lordship to cause Serjeant M. Robinson to answer for such omission on his part before a genera

regimental court-martial; for holding which, I now send the necessary warrant for the appointment of a Judge-Advocate, which I have to beg you will further cause to be filled up by the name of an officer of the corps competent to perform the duties of that office.

I am commanded by my Lord Wellington to take this occasion of mentioning, that the complaints are so general against the 10th Hussars, and so extremely discreditable to the regiment, and prejudicial to the interests of the army, it is requisite you should immediately adopt measures to re-establish that discipline which is necessary to good order, but which has been allowed to relax in an unpardonable degree under the command of Lieutenant Colonel Quintin.

Your lordship will be so good to communicate to the Lieutenant Colonel the Field Marshal's displeasure at having to notice irregularities it was in his power to have prevented; and that a recurrence of such breach of regulation and good order will convince his Excellency that Lieutenant Colonel Quintin is unequal to control a regiment of the first pretensions.

You will be pleased to assemble the officers, and explain the necessity of their daily ascertaining the conduct of their soldiers; and should the inhabitants have been aggrieved or injured, they must immediately be redressed, and every damage paid, without the discreditable references that now appear indispensable on the part of the claimants.

I have, &c,

(Signed) E. M. PAKENHAM.
Adjutant General.

Major General Lord E. Somerset, &c. &c.

Does your lordship recollect assembling the regiment in consequence of the letter just read, and communicating to the whole of the officers the Field Marshal's sentiments upon their conduct?—Having previously shewn that letter to Colonel Quintin, I assembled the officers on the following morning, and expressed to them my sentiments on the points adverted to by that letter.

Does your lordship remember my waiting upon you after the parade, and requesting to know from your lordship if I was to consider myself implicated in the general censure cast upon the regiment?—I remember Colonel Palmer waiting upon me after the parade, and

speaking to me upon the subject now mentioned. My answer was, that I was perfectly well satisfied as to his zeal and attention to the good of the regiment.

Does your lordship remember my stating to you certain reasons for not having addressed you upon the parade?—I cannot call to mind what passed upon that particular subject. Colonel Palmer might have mentioned to me reasons for not addressing me upon the parade, but I cannot call them to mind at this moment.

What answer did Colonel Quintin give your lordship upon your communicating the contents of that letter?—Colonel Quintin expressed his regret that he should have incurred the displeasure of the commander-in-chief; and expressed his general anxiety to maintain the discipline of the regiment.

Did Colonel Quintin complain in any manner to your lordship of his not having been supported by the officers?—I do not recollect that he did.

Does your lordship recollect the late Captain Gordon waiting upon you in behalf of himself and the rest of the officers, upon the same subject?—Yes, I do.

What answer did your lordship make to Captain Gordon?—Captain Gordon waited upon me immediately after I had dismissed the regiment, and expressed to me that he and other officers of the regiment (meaning principally to refer to the captains) were hurt at some expressions I had made use of in addressing the regiment, conceiving that I attributed blame to them in the execution of their duty. I answered him, that having a high opinion of Captain Gordon, (which I had) it was far from my wish to make use of any expressions that might hurt his feelings; but that I felt it necessary to advert to all the points which I did in addressing the officers, and to recommend generally a strong support throughout the regiment to the commanding officer: that, cantoned as the regiment constantly was in dispersed villages, unless the commanding officer was properly supported by every officer under his command, it was impossible for him to maintain discipline, and therefore I had thought it necessary to point out the duty of every one in addressing the regiment.

Did your lordship mean Captain Gordon to consider that as a general instruction from your lordship to him and the rest of the captains; or in any manner to be considered as implying a doubt, upon your part, of their

having performed their duty, and supported their commanding officer?—I had explained very fully, when I assembled the officers, my instructions to them. What I said to Captain Gordon, was an explanation to him; and I certainly meant to impress upon the officers, that when troops were scattered over a great extent of country, a great deal necessarily depended upon the troop-officers.

Your lordship remembers the order of the 26th of February from Sir Stapleton Cotton; the general cavalry order?—Yes, I do.

Did your lordship speak to Colonel Quintin in consequence of that order?—Yes, I did.

Did Colonel Quintin at that time make any complaint of not having been supported by the officers?—I do not recollect that he did.

Had your lordship any other conversation with Colonel Quintin previous to the general order of the 26th of February, and the letter that you received from Sir Edward Pakenham, dated the 30th of March?—I have had, at different times, several conversations with Colonel Quintin on the discipline of the regiment.

What was your lordship's general opinion of the conduct of the officers?—I had every reason to approve of the general conduct of the officers: they appeared to be zealous and attentive to their duty.

Cross-examined by Colonel Quintin.

With respect to this letter of the 30th of March, did you not state to Colonel Quintin, that the letter was not a public one, and that you could not give it to him?—I do not recollect that I stated that to Colonel Quintin; but I considered the letter as a letter not to be put into public orders: a letter for my instruction from the commander of the forces; but not such a one as I should make public in the brigade.

Did not Colonel Quintin ask to have the letter?—Colonel Quintin might have asked me for the letter, but I do not positively recollect it.

Do you know whether any general court-martial ever assembled on the conduct of Serjeant M. Robinson of the 10th Hussars, who is alluded to in the letter of the 30th of March?—I directed Colonel Quintin to make an enquiry into those circumstances, and to report to me thereupon; and his report I sent to the Adjutant General, Sir Edward Pakenham.

Have you any means of knowing, that neither Serjeant Robinson, nor any other person of the 10th Hussars, had committed the violence stated in that letter?—Colonel Quintin, in his report to me, considered Serjeant Major Robinson not to have been guilty of what was charged against him; and from the circumstances stated in his letter, I had reason to acquiesce in that.

Re-examined by Colonel Palmer.

Did I ever, upon any occasion, express an opinion to your lordship of Colonel Quintin's conduct, except upon the subject of the present charge relative to the want of discipline in the regiment?—I had occasional conversations with Colonel Palmer upon the state of the regiment; from which it appeared, that he was not satisfied with the manner in which the discipline was carried on. In no other respect did he express himself dissatisfied with Colonel Quintin.

Major General the Hon. T. Mahon. Did you consider the relaxed state of discipline of the 10th Light Dragoons, to be principally ascribable to the inattention and want of exertion of the officer in command of the regiment?—I considered the relaxed state of discipline of the regiment to be principally attributable to the want of a proper system being maintained, and to the want of a proper arrangement in carrying on the duties.

Major General the Hon. De Grey. Did you witness the operations of the 10th Hussars on the 28th of February, and the 10th of April last, when engaged with the enemy; and did you observe any misbehaviour in Colonel Quintin in his capacity of commanding officer of that corps on either of those occasions?—I witnessed the operations of the 10th Hussars on both of those days; but I did not observe any misbehaviour on the part of Colonel Quintin.

Major General Buller. Did your lordship, from personal observation, or otherwise, attribute the want of discipline of the 10th Hussars to individual want of energy in the commanding officer of the regiment?—I did not observe any want of attention to any directions, or orders from me, in the commanding officer of the regiment; but I conceived, that at times there was a want of activity on his part.

Colonel Quintin. Did you communicate to the officers only a part of that letter, or the whole, including that

part relating to Colonel Quintin?—I did not communicate the whole of the letter, nor any part of that which related to Colonel Quintin. I expressed merely to the officers the displeasure incurred with the commander of the forces; and addressed myself to them at some length on the discipline of the regiment, and on the manner in which the duty ought to be carried on.

Major-General the Hon. De Grey. I do not know whether it is material; but there was a direct question put by Colonel Palmer, on the subject of the court-martial. I do not think it directly appears that that court-martial did not assemble.

Judge Advocate General. Thus much appears, that a report was sent in by Colonel Quintin, which was transmitted to the Adjutant General, that contained a statement, from which Colonel Quintin inferred, that Robinson was not guilty; and Lord Edward Somerset acquiesced in that.

Major-General the Hon. G. De Grey. I do not know that it is material; but it was a direct question.

President. Your lordship transmitted to the Adjutant General the report, that the man was not guilty; and that you acquiesced in that opinion?—Yes. The answer I received to the report I sent to the Adjutant General was, that it appearing from the enquiry that had been made, that the man was not guilty, it was not required that he should be brought to a court-martial.

Major General Grant sworn.

Examined by Colonel Palmer.

Be pleased to state to the Court the period that you were in the command of the Hussar brigade on the peninsula.—I commanded the Hussar brigade from the period of its arrival at Lisbon, until it reached the Pyrenees, from the beginning of February, till the 3d of July, 1813: I mean to say, that the first part of the brigade arrived early in February; the last part arrived the 12th, 13th, and 14th, of February.

Were you satisfied with the appearance and conduct of the 10th regiment at Lisbon, and previous to its march to join the army?—The regiment landed in very fine order from England.

Do you recollect inspecting the regiment in marching order, previous to its leaving Lisbon?—I did inspect the regiment on the sands near Balam Castle.

Do you recollect the opinion you expressed of the regiment on that occasion?—I do not recollect the exact expression I might use; but I remember what I thought of the regiment. The men were physically good subjects, healthy, and well appointed; the horses were well selected, and in very fine condition.

Were you satisfied with the conduct of the men during that period?—The men generally behaved remarkably well. There were occasional instances, perhaps frequent instances, of intoxication; but the general conduct of the men was good.

At what period do you mean that those instances of frequent intoxication occurred?—During the time when the regiment was in the barracks at Balam.

Did you not express yourself satisfied with the conduct of the officer in command of the regiment at Lisbon?—Yes, I did.

President. You may save another question, by putting down who was the commanding officer.

Colonel Palmer. I had rather not.

Major General Grant. Colonel Palmer was the commanding officer at Balam.

President. I admire Colonel Palmer's delicacy in abstaining from asking it; but it would of course be asked by some member of the Court.

Lieutenant-General Champagnè. Were you in every respect satisfied with the conduct of the commanding officer?—In every respect the commanding officer appeared to be remarkably attentive to his duty.

Colonel Palmer. Did you continue to be satisfied with the conduct of the regiment up to the period of your leaving the brigade?—The conduct of the regiment during the whole of the march from Lisbon to Olitè, where I gave up the command, was remarkably good: there were occasional instances of little irregularities, but which did not militate against the general conduct of the regiment.

Under whose command was the regiment when you quitted the brigade at Olitè?—The regiment was under the immediate orders of Major Robarts of the 10th Hussars.

Colonel Gardiner sworn.

Examined by Colonel Palmer.

You commanded a troop of horse artillery on the Peninsula, under Lord Wellington?—I did.

When were you first attached to the Hussar brigade?—On the 1st of June, previous to the affair of Moralles.

How long did you continue with it?—I continued with the brigade till after the battle of Toulouse, when the army marched for embarkation.

You had frequent opportunities of observing the regiment during that period?—I moved continually with the regiment. I had almost daily opportunities.

Do you remember the arrival of Colonel Quintin?—Yes.

What was your opinion of its discipline previous to his arrival?—I considered it exemplary: it was the admiration of the army.

Did you observe any change in the discipline after the arrival of Colonel Quintin?—I most certainly did.

Did you at any period, whilst attached to the brigade, occupy the same cantonments with that regiment?—I was cantoned at Tafalla with them, from the 12th of August, to the 1st of November, 1813.

Did you ever hear the officers of the regiment complain of Colonel Quintin for not attending to their reports and representations of the misconduct of the men, and of his disregarding those reports, and declining to punish them?

Judge Advocate General. I am afraid that question can hardly be put, whether Colonel Gardiner heard any complaints made in respect of that, unless it was in the presence of Colonel Quintin; if any officer has any such complaint to make, he should state it here. Colonel Gardiner may state that he heard those complaints; but it is impossible from that to say whether the complaints were correct.

Colonel Palmer. I will withdraw it then.

Lieut. Gen. Sir Samuel Auchmuty. Unless it is intended to ask who the officers were, and then to call them.

Judge Advocate General. Then it is so much loss of time.

Colonel Palmer. I will put it in another way. From your personal acquaintance with the officers, previous and subsequent to the arrival of Colonel Quintin, are you of opinion that the relaxation of discipline proceeded from any want of zeal on their part?—On the contrary, from my personal intimacy with the officers, I had every opportunity of knowing their zeal and interest in the character of the regiment.

Were they the same officers under Colonel Quintin, and Colonel Robarts?—They were the same, with a few

exceptions, on the arrival of officers from England subsequent to that.

President. They were in general the same?—Yes, they were; there were a few arrivals from England.

Colonel Palmer. You have stated to the Court, that you observed a change of discipline subsequent to Colonel Quintin's taking the command: will you now state the points in which you consider that change to have consisted?—I think it consisted in the total loss of condition of the horses, in the slovenly appearance of the men; I mean as to their appointment and equipment, in their irregularity and straggling on the march, and particularly in the failure of assembly of the regiment at the place of rendezvous of the brigade previous to the day's march.

Can you state any particular instances to the Court?—It happened so repeatedly, that I really cannot precisely state any period; but the impression upon my mind of their being late is that, sometimes three times a week, I had occasion to wait with the other corps of the brigade assembled for the 10th Hussars. I remember one instance particularly, before crossing the Adour, two days after the battle of Orthes, to the best of my recollection, we waited a long time there: I speak of that generally, it was a thing that occurred three times a week.

Did you ever know instances of its being productive of inconvenience to other parts of the army in the column of march?—I have known the Hussar brigade sometimes detained an hour subsequent to the hour of march; I have known a division of infantry, and sometimes two, obliged to proceed, and file a-head of the brigade; and after they had passed that, the Hussar brigade, in consequence of being detained, has had to trot out, to recover their place in the line of march; I should think very much to the inconvenience of the troops, and certainly exhausting the horses to no purpose.

Do you mean to impute the fault on these occasions to the brigade in general, or to the 10th in particular?—To the 10th Hussars in particular; it was the custom to name a place of rendezvous to the brigade, previous to its march on the following day; and I have known the 17th and 15th, and my own troop wait for the 10th; that is what I mean.

Brigade Major Jones called again.

Examined by Colonel Palmer.

During the whole period that you were with the Hussar brigade, had you not constant opportunities of observing the conduct of the 10th Hussars?—Certainly.

What was your opinion of its state of discipline, from its first landing at Lisbon, to the period of its march to join the army?—When the regiment disembarked at Lisbon, it was certainly in good order; but the conduct of the men after the landing was but very indifferent.

State what their conduct was after their first landing?—Immediately after their landing, I thought the conduct of the men was bad, the state of the regiment was good, and their appointment, and so on. During their march up the country, the regiment was in very good order, I conceive, and the behaviour of the men good.

Can you state if any change, and what, took place in the conduct of the men during the time they were at Lisbon, and what was the state of the regiment previous to its leaving Lisbon?—I have already said the conduct of the men was very indifferent on their landing at Lisbon: previous to the regiment leaving Lisbon, it certainly became in better order, as far as their conduct was concerned; the behaviour of the regiment was good on their march up the country.

What did you consider to be the discipline of the regiment, shortly previous to Colonel Quintin arriving and taking the command?—At the time it was under Major Robarts?

At the time of the affair of Moralles for instance?—I conceive the regiment was in good order; immediately before Colonel Quintin's arrival, the regiment certainly was in good condition.

Did you perceive from the period of the regiment landing at Lisbon, to that of Colonel Quintin's arriving to take the command, any want of exertion on the part of either of the commanding officers?—No, certainly not.

Did you observe any change in the discipline of the regiment, and in the conduct of the commanding officer, after the arrival of Colonel Quintin?—Yes, certainly; a very great change took place in the discipline of the regiment, a short time after Colonel Quintin's arrival.

Were you not with the head-quarters of the brigade

at Tafalla the whole time the regiment was stationed there?—Yes, I was.

At what period was that?—August, September, October, and part of November.

Will you state in what respects?—The regiment certainly became slovenly, and the conduct of the men very bad; drinking, and behaving extremely irregularly, and apparently very inattentive to their duty.

Have you not reason to know that the want of discipline in the men was not checked by Colonel Quintin?—I have some reason to believe certainly, it was not to the extent that it ought to be.

Can you state any particular instance that occurred to your own personal knowledge?—I do remember two or three instances: the one was a circumstance that occurred with a man on duty at my door, as an orderly, I cannot recollect the man's name: but I sent him to the acting adjutant of the regiment, and gave him into confinement, under charge of the adjutant, and desired him to report to Colonel Quintin the state the man was in; he was excessively intoxicated upon his post; he was orderly sentinel at the brigade major's office. I was afterwards informed that the man was confined in the first instance, but that he was not punished.

President. Was he tried?—Certainly not. I had in one or two instances before sent off men in a similar state from the door of the office intoxicated on duty, and learning that they received no punishment, I stated the matter to Lord Edward Somerset, commanding the brigade, who desired if it occurred again, that I would make an official report of the circumstance.

Colonel Palmer. Do you not conceive the circumstance of orderlies being drunk on their posts, is a very strong instance of the want of discipline in a regiment?

Judge Advocate General. The articles of war say, that it subjects to death.

President. You might put the question in this way. Do you not think that the circumstance of an orderly drunk on his post, when reported to his commanding officer, not being tried, and punished, is a relaxation of discipline?—I think it shews a great want of order and regularity.

Major Gen. the Hon. T. Mahon. From your personal observation, did you attribute the relaxation in discipline of the 10th Hussars, to the want of energy or activity

in their then commanding officer?—Certainly. As far as my opinion went, I thought Colonel Quintin did not take those steps that he ought to have done.

Colonel Palmer. I wish to apologize to the Court for having asked these questions; but I think it is very material to shew the opinions of others, as well as my brother officers: they will state upon their oath, that they were not supported by the commanding officer; but as I am confined to a particular time, I do not know how far they can swear to the instances, or to the dates; they will swear to all the facts they can call to their recollection.

Judge Advocate General. I should think the Court will feel this evidence to apply strictly to this charge; my feeling upon the subject is, that facts and circumstances have but very little to do, at least are very little necessary to making out, on the part of the prosecution, the charge itself: they may be very necessary to be enquired into on the part of the defence, and by way of cross-examination; but with an officer whose duty it was to look to the state of the discipline of this, or any other regiment, I cannot conceive a question which can be less objectionable, than to put it to him in this way: What was his opinion of the state of discipline of this regiment at any particular time. He may give his opinion upon the state of discipline, and if he states that it was in his conception bad, it is open to the officer on trial to ask his reasons; but I should think the Court must feel that the evidence is much more comprehensive before them, in calling persons who are qualified to speak to the general conduct of the discipline of the regiment, than in searching about for any particular facts; which facts have not been mentioned in the charge, and therefore there might be a supposition of the officer on trial not being prepared to answer them. But the charge going to the general state of the regiment that is the question; and the answers of these witnesses appear to me to be direct evidence upon the subject of the charge. Wherever facts are mentioned, there you must prove the facts: here it is a charge upon the general discipline of the regiment: if you call those whose duty it was to attend to the general state of that regiment, I think there cannot be more direct evidence.

President. In this charge there is no particular instance mentioned.

Judge Advocate General. No, there is not; and I really should think that an accumulation of particular facts, though it will certainly be perfectly good evidence, would be open to this impression, that if they were very numerous, the facts not having been previously stated, it might be open to the question, whether the officer on his trial could be prepared to answer them; and a charge as to the state of the discipline of the regiment does not so much depend upon particular facts, as upon general conduct.

Colonel Palmer. I will call the officers to state the facts within their knowledge, and then the Court will judge how far the facts stated apply to the charge.

Captain Lloyd again called in.

Examined by Colonel Palmer.

Do you conceive that you were supported by Colonel Quinton, in the command of your troop, during the time he was in the command of the regiment on the Peninsula?—No.

Can you state the instances in which you were not supported?—I can state two or three. The first instance is, that of a private Baltrop, against whom I sent a charge to Colonel Quintin; and likewise personally reported his having sold and made away with corn-sacks, belonging to another man, as well as the troop, stating his constant bad character; this man was not tried: the Colonel desired I would punish him how I chose. The case of a man of the name of Mills, who was confined several times for repeated drunkenness on parade. I several times wished to bring that man to a court-martial. The man afterwards died, and I understood his disease was brought on by drunkenness.

President. You applied for a court-martial?—I personally applied to Colonel Quintin.

Judge Advocate General. He was not tried?—He was not tried. The third was, while my troop was quartered at Cambo, with a Portuguese brigade, commanded by Colonel Doyle, I found that the men of the Portuguese brigade were buying the men's necessaries, and after some exertions to detect the men who had been selling them, finding a great deficiency I found a Portuguese officer wearing the stockings of one of our men: the Portuguese officer came forward, and proved that his

man had purchased them of one of our men, and produced a corporal of the Portuguese brigade, who was present at the purchase. I knew they were stockings which could not be purchased in the country. My serjeant reported several cases of the kind. I reported this in writing to Colonel Quintin, and sent in the charge. I afterwards met the Colonel, and personally pressed it upon his consideration: he said if we were to try men for trifling offences of that kind, what were we to do with the greater. The man was I understand afterwards released.

Colonel Palmer. Can you state any further instances?—I have no further instances in my recollection to state. I am confident there were a variety of other instances in which I was not supported; but I cannot call them to mind at the moment.

Do you remember a single instance, in which you were not supported in the command of your troop by the preceding commanding officers?—Never one instance.

President. Can you state the name of the man that was imprisoned for selling his stockings?—M'Kenzie.

Colonel Quintin. What was his Christian name?—I cannot state that; but there was but one man of the name of M'Kenzie in my company.

Colonel Palmer. State the conduct of your men from the time of their marching, up to the time of Colonel Quintin's joining them?—It was very good.

Lieut. General Champagné. Do you mean to say it was very good during all the time they were at Lisbon?—There may be some few instances of three or four men being drunk, but they were punished. I mean to say they were not worse than the generality of regiments.

Colonel Palmer. Do you remember on their first landing, for the first few days, that the men were extremely drunk?—There were several men drunk, who were tried and punished.

Do you remember at the first parade, the commanding officer stating to the men that he should upon all occasions bring that man to trial who was reported by the captain of his troop?—Yes.

Colonel Palmer. I feel very delicate about this, because I was the commanding officer; but I think it necessary to prove that during this time they were in a state of perfect discipline.

Judge Advocate General. Colonel Palmer will judge whether that does not stand perfectly uncontradicted here: it must strike every one that there is no relevancy in his course of examination to the charge into which we are now enquiring, except in one point, which is, I admit, material; that is to shew the state of the regiment at the time that Colonel Quintin took the command. Now General Grant states in very high terms, the state of the regiment at the time of its landing, and when it began its march; we have then the evidence of Brigade Major Jones, who states some instances of drunkenness on their landing, but that they improved on their march, and were very orderly afterwards; we have now the evidence of Captain Lloyd, that he conceives he was not supported in the command of his troop by Colonel Quintin: he states instances in which Colonel Quintin did not attend to his pressing representations; he then states that he never remembers an instance in which he was not supported by the preceding commanding officers to Colonel Quintin; he then goes on to state that the conduct of the men at Lisbon, was at times irregular from intoxication, but that in those instances, the men were always punished; and then he states a fact that the commanding officer there stated to the men generally that when any individual was reported by his captain he should be brought to trial for his offence; now I would put it to Colonel Palmer, whether that does not go as far into the state of the previous discipline, as it can possibly be necessary to go.

Colonel Palmer. General Grant has given his evidence, as he feels it; but I think that which he has stated was not the fact exactly. The fact was, that the men when they first landed, were very much subject to drunkenness; they had an opportunity of getting at wine, and I felt it necessary to punish them, and I punished every man that was reported: the consequence was, that when the regiment left Lisbon, there was but one man drunk in the whole of the troop, and that they behaved very well during the whole of their march.

Judge Advocate General. It is very easy to get at that by asking whether the intoxication of the men, when they first landed, was very frequent, and then whether it diminished afterwards.

President. We have had very strong evidence already upon that subject.

Judge Advocate General. Colonel Palmer thinks it material to prove that it appeared necessary to use strong exertions to maintain the discipline of the regiment, and that those were used; the only question is, whether that does not already appear.

President. It appears to me that the discipline of the regiment improved, till it became, what the officer of artillery expressed, a pattern for the rest of the army.

Major Gen. Bolton. That is the strongest evidence which can be given.

President. It is natural that when the men landed, where they could get wine for nothing almost, they would be subject to drunkenness.

Major Gen. the Hon. De Grey. Any commanding officer who landed at Lisbon, would find that; I was three or four months at Lisbon, and experienced the same thing, and it is always so; there is a depot established there, and there is constant intercourse which cannot be prevented.

Judge Advocate General. Captain Lloyd has stated that there were frequent instances of intoxication, but that none of them were left unpunished. Colonel Palmer wishes to ask whether in consequence of those instances of punishment, the instances of intoxication diminished? —Certainly, very much.

Colonel Palmer. The men were not all punished for intoxication, but for misconduct and neglect of duty, in consequence of intoxication?—Yes, certainly.

Captain Harding again called in.
Examined by Colonel Palmer.

Do you conceive that you were supported in the command of your troop by Colonel Quintin, the commanding officer of the regiment?—Certainly not.

Do you remember any instances in which you were not?—I recollect two or three instances.

Will you state the instances?—A man of my troop, of the name of Hitchins, was reported by me at Tafalla, two if not three times, for drunkenness and neglect of duty.

To whom?—Through the regular channel. The man was not brought to trial at that time.

What was the next instance?—The next instance happened while we were quartered at Cambo. I myself reported to Captain Quintin, two men; one's name was

Charlton, to the best of my recollection, and the other Aslett, I think, on suspicion of sheep-stealing. Colonel Quintin, on my making the report, said, that if I had witnesses to prove it, if I could bring forward proof, he would try the men; upon which I said, in my opinion there was sufficient evidence to convict them.

Were they tried?—They were not tried upon that occasion.

Do you remember any other instance?—No, I do not at this time.

Do you remember any instance in which you were not supported by the preceding commanding officers?—No, I cannot say that I recollect an instance.

Did you not consider it as useless to make representations to Colonel Quintin, of the misconduct of the men, in instances which you undoubtedly would have reported to previous commanding officers?—I certainly felt it useless on many occasions to report, finding that I was not supported.

Have you complained to Colonel Quintin of the general want of discipline of your troop?—I did once make a remark upon the subject.

Did you not generally represent that the men were drunken, when you reported upon those cases?—Of course, when the reports were made, that appeared.

Judge Advocate General. The question is, whether you made a complaint of general want of discipline in your troop?

Colonel Palmer. Had not Colonel Quintin reason to know the general want of discipline in your troop?—I should certainly suppose he had.

Did he ever complain of your having neglected your duty?—I do not recollect that he did.

Captain Edward Turner sworn.

Examined by Colonel Palmer.

At what time did you land with your squadron on the Peninsula?—It was on or about the 23d of January last.

What was the conduct of the men of your squadron on their first landing?—On their first landing very good.

During their march to the regiment?—Their conduct during their march was very good.

Did you perceive any alteration in their conduct on joining the regiment?—A very manifest one.

Judge Advocate General. How soon after?—I should think in three or four days afterwards.

Colonel Palmer. In what respect?—Being guilty of repeated drunkenness, and thieving, and great irregularities.

Did you report their misconduct to Colonel Quintin?—I did.

Were those men that you reported brought to trial?—No, I think they were not.

Do you recollect the particular instances of any men, that you reported to Colonel Quintin?—I recollect the instance of a man of the name of Miles, whom I reported, for drunkenness.

He was not punished?—He was not punished for that offence.

Do you recollect any other?—I do not recollect any other by name: there were several.

Do you recollect the date of your joining the regiment?—I cannot positively say; but I should think about the 21st of March; we were nearly three weeks on our march.

Do you recollect any other instances of your reporting to Colonel Quintin?—I remember the instances, but not the names.

You mean to state, that the men were in a great state of drunkenness and irregularity?—Certainly.

You have stated, that the conduct of the men was extremely good, till you joined the regiment. Do you mean to state, that there were no instances of drunkenness, immediately on their first landing?—That I wish to explain. You asked whether the conduct of the squadron was not good on their first landing: it was immediately on their first landing; but in about a week afterwards, there were two or three of them guilty of drunkenness.

Were any steps taken?—They were brought to a court-martial, and punished.

Were you present at the punishment of a private named Rowe?—I was.

I allude to the circumstance of a punishment, which took place at Renteria; I believe that was not Rowe?—No, it was not.

State the observations you heard made by the men on that man being punished?—I recollect the men making a considerable noise, and laughing with each

other, and I heard them distinctly say, "if Colonel Quintin was here, nothing of the kind would happen."

Judge Advocate General. I am afraid that will not do; that is giving the opinion of the men as to what they would expect.

Colonel Palmer. I cannot express to the Court how very disagreeable it is to me to urge this point. I think there cannot be a greater want of discipline, than for the men to say what has been stated, in the presence of their officer upon parade, and it is a proof of the opinion they had of their commanding officer.

Judge Advocate General. Does not it shew likewise the want of controul of the officers at that moment, that they should dare to use such expressions? When those offences were punished, you prove that they diminished; they were more frequent in the origin, and diminished from time to time, and they afterwards increased, and this, too, coupled with the circumstance, that when they afterwards increased, they were not punished. It is impossible that there should be stronger evidence, and that is certainly much better than the opinion of the men, as to what would take place.

Colonel Palmer. Then I will withdraw that.

Judge Advocate General. This was not after the regiment joined Colonel Quintin?—No, on their first landing.

Judge Advocate General. It is better to state what did happen, when they committed offences, than what the men imagined would happen. You have it in evidence, that on the offences happening, reports were made, but that they were not punished, and that the offences increased. It appears, by the evidence also, that when they were guilty of drunkenness on first landing, they were punished, and that the offence diminished, in consequence of the notice taken of it.

Colonel Palmer. Do you remember the circumstance of the arrival of the regiment at Plaizance?—I do.

When was that?—About the last week in March.

Colonel Palmer. I know it was previous to the 30th of March.

Judge Advocate General. Then it must be immediately subsequent to this squadron joining the regiment, if it was previous to the 30th of March?—Yes, it was so.

Colonel Palmer. Do you recollect my being ordered

to take the command of the two right squadrons, that were ordered to the front?—I do.

Do you remember the circumstance of the picquets being driven in?—I do.

That, in consequence, the two squadrons were obliged to retreat?—Yes.

Do you remember, that we afterwards re-occupied the posts?—I do.

But that the men did not return to their quarters; but occupied a station further in the rear?—Yes.

Judge Advocate General. What men?

Colonel Palmer. The whole of one squadron, I think. Do you remember your troop being posted in a large chateau, which contained the whole of them?—I do.

Do you remember, after leaving that chateau, the next day, which you had occupied the previous night, my stopping your troop upon the road?—I do.

Do you remember my dismounting the men?—I do.

Making them take off the whole of their kits?—Yes.

And making a strict search, in consequence of the plunder of the house, that had been reported to me?—I remember it perfectly well.

Do you remember my finding different articles that were stolen?—Yes, I do.

Do you remember my addressing the troop upon the occasion?—Yes, I do.

Do you remember Colonel Quintin coming to the spot whilst I was about this business?—Yes, perfectly well.

Do you remember my stating to Colonel Quintin the pursuit that I was engaged in?—Yes, I do, perfectly well.

What did Colonel Quintin do or say upon that occasion?—He sat upon his horse two or three minutes, without saying a word, and then went away.

Colonel Palmer. It is possible that the witness may not distinctly recollect the circumstance: he thinks the fact was this, that I was there examining the troop, that Colonel Quintin stood there a considerable time, and did not make any observation at all upon it, and then rode away.

Judge Advocate General. So it appears.

Colonel Palmer. Did he make any observation whatever upon what was passing?—None whatever.

Did he appear to take any interest in what was doing?—Not the least.

Cross-examined by Colonel Quintin.

What were the articles found on these men ?—I think there was a fowl and some linen.

Captain Smyth sworn.

Examined by Colonel Palmer.

Do you recollect the day that you arrived at the regiment, after your landing ?—I rather think it was about the 21st or 22d of March.

What was the conduct of the men, after your arrival at the regiment ?—The conduct of the men, I think, was worse than it was during the march, when I had the command of them. I think, on their joining the regiment, their behaviour in general was worse.

Do you think the conduct of the men was bad, on the march ?—No. I do not think it was so bad. I punished some men at Renteria, and during the rest of the march, they behaved very orderly. I had no occasion to find fault with them.

Did you report the conduct of a serjeant ?—I did.

State the circumstance.—Upon my arrival at the regiment I reported a serjeant of my troop, of the name of Hyde, who was charged with breaking open a letter, and taking out some money belonging to one of the men of the company. I mentioned it to Major Howard, and requested he would report the circumstance to Colonel Quintin, which he said he would do. I did not hear of it for several days. When the serjeant-major came and asked me whether I had sufficient evidence against this man, I stated that I had; that I had the evidence of the private, supported by the quarter-master of the troop. I did not hear any thing of it till the 2d of April, when I reported it to Colonel Quintin at the watering order, and begged he would take notice of this serjeant, whom I had mentioned before; and I was assisted in the report by Captain Lloyd, who commanded my squadron at the time.

Was he tried ?—Yes, he was then ordered into confinement.

Can you state any other instance ?—There was another instance, a private of my troop, of the name of Pearce, who was constantly drunk, and always very dirty on parade. I reported this to Major Howard, and brought him forward to Major Howard, as well as Captain Lloyd, who commanded my squadron; the man was

ordered to go to the rear, was confined for two or three days, and was then released.

What was the result of the trial of the serjeant?—He was convicted; and I think his sentence was, that he should be suspended, and punished in some way; but owing to the peace there was a general pardon came out, and he was not punished.

During the short period from the time you arrived at the regiment to that contained in the charge, were you generally supported in the command of your troop by Colonel Quintin?—No, I cannot say that I had that support which I expected.

Major Gen. Dilkes. I think it would be material to know the sentence of the court-martial on that serjeant.

Judge Advocate General. That can be got at only from the record of the court-martial. By what court-martial was he tried?—It was a general regimental court-martial.

Judge Advocate General. I dare say I can lay it before the Court when they meet again.

Colonel Palmer. Did you not state to Colonel Quintin, as a reason for reporting the serjeant, that while he was under these circumstances of suspicion——

Judge Advocate General. Rather what reasons did you state for reporting this man?

Colonel Palmer. You have stated that you reported this serjeant in the first instance to Major Howard, and that then you urged upon Colonel Quintin the bringing him to a court-martial. What did you state?—Only that the man was charged with this sort of thing, breaking open a letter and taking the money belonging to a private of the regiment; that I thought that was not the proper conduct of a non-commissioned officer, accused by one of the privates of the troop. It was reported to me, and I thought it was my duty to take notice of it.

Lieutenant Eversfield called again.

Examined by Colonel Palmer.

You are in Captain Lloyd's troop?—Yes, I am.

Do you remember being on picquet on the 10th of August last year?—Yes, I was.

Where?—At Orbiga, in the Pyrenees.

State the circumstances.—The regiment had received an order to march from Orbiga early in the morning; I not being relieved till late in the evening, Captain Gor-

don was left to collect the picquets and march them after the regiment. On my march from Orbiga to Roncesvalles, which is about two leagues, a private of the name of Abbott I perceived to be exceedingly drunk, insomuch that he got off his horse and was running after sheep, and behaved in a most disorderly manner, not attending to what I said in any sort. I accordingly made a prisoner of him, and reported him to Captain Gordon when I arrived at Roncesvalles, who onjoining the regiment reported it to Colonel Quintin. The man was afterwards tried by a court-martial, and being paraded for an execution of the sentence, Colonel Quintin remitted the whole of the punishment which was awarded him by the court-martial.

Colonel Palmer. I shall call no more witnesses. I enquired last night, and I found that Sir Edward Pakenham was not arrived. I can only say I have done all I could to procure his attendance.

Judge Advocate General. There is no doubt of that fact; the only object of having Sir Edward Pakenham is, to answer to other questions which might be proposed to him, the order being admitted as authentic. I sent the subpœna myself as soon as possible after I understood that his attendance was required. Colonel Palmer informs me that the evidence upon this charge is closed.

Colonel Palmer. I understand Captain Fitzclarence wishes to come in to explain a part of his evidence.

Captain Fitzclarence called in again.

Captain Fitzclarence. I was asked yesterday, "did Colonel Quintin come to the front previous to your going away after being wounded?" In answer to which, I said; "no, I did not see Colonel Quintin," to which I added, "he did not certainly." That was too strong, as I certainly lost my head in some measure, after being wounded. I should not like to speak with confidence; what I wish to be understood to say is, that to the best of my knowledge, he did not. I did not see him, to the best of my recollection.

Colonel Palmer. I would wish to say one word as to the evidence which has been given to day. I have been placed in a most unpleasant situation, in bringing forward this evidence, having been obliged to get the notes from the officers, and to request them to assist their recollection as much as they could. There was one fact

stated by Captain Turner, relative to what occurred where the troop was dismounted : I was anxious to state that fact, because it happened about the time that the general complaints were made by Lord Wellington, and just before the letter of the 30th of March. I was anxious to bring forward that instance. I am sure Captain Turner has stated it to the best of his recollection ; but I should not wish from Colonel Quintin's defence that it should appear, that I have acted in an improper manner, in concealing or withholding the fact. I have no hesitation in saying that I had a conversation with Colonel Quintin upon that subject. Captain Turner says that he went away without saying any thing ; but I recollect having a conversation, and a warm conversation upon the subject——

President. Which Captain Turner might not possibly hear.

Colonel Palmer. Just so, as he went away previous to this conversation taking place. Another thing occurs to me, with respect to the serjeant brought to a court-martial, who was not afterwards punished. All I mean to shew is, that the man was reported, and that, therefore, the captain did his duty.

Judge Advocate General. The prosecution having been closed, Colonel Quintin will next enter upon his defence: he will make his statement, and then produce his evidence; and then, after that is closed, Colonel Palmer will have a reply upon the whole. The question is, what period the Court would fix for entering upon his defence : the ordinary course is, to ask the officer upon his trial, what it is that he requests, and then the Court will decide upon the propriety of acceding to his application.

President. Gentlemen, the prosecution being closed, Colonel Quintin is desirous that he may have till Tuesday morning to make his defence : have you any objection to that period? There being no objection the Court is adjourned till ten o'clock on Tuesday morning.

FIFTH DAY.

Tuesday, 25th October, 1814.

JUDGE ADVOCATE GENERAL. Before the Court proceeds to the defence, I am desired to state that Sir Edward Pakenham called upon me on Friday last, and stated his extreme regret that his arrival in town was too late; that he had understood from the letter, that he should not be wanted till the 20th, which was in fact the day on which he arrived; but that instead of an ordinary passage, he had had a very long one, with adverse winds and boisterous seas, which had rendered his arrival too late: he was anxious to state this to the court, if he had been wanted by Colonel Quintin; but understanding that Colonel Quintin did not want him as a witness, he wished I would state the reason why he was not here, while the evidence was giving in support of the prosecution.

President. The reason is perfectly satisfactory, I have no doubt, to every member.

Judge Advocate General. Colonel Quintin is desirous that I should read his defence for him. It is very well known to the court, that it is not customary to permit any body to read for the officer on his trial, unless it is the Judge Advocate. As it is wished, I will endeavour to do my best.

Colonel Palmer. As far as depends upon myself, I have not the slightest objection to Mr. Harrison's reading Colonel Quintin's defence.

Judge Advocate General. I am personally obliged to you for having stated that; but I am afraid it is inconsistent with the usage.

The Judge Advocate General read the defence of Colonel Quintin, as follows:

General Vyse, and Gentlemen of the Court-Martial:

Before I proceed to the particular charges, I must request your indulgent attention to some observations upon the very peculiar circumstances under which I have been brought before this court, and upon some of the statements of Colonel Palmer in his first address.

I served with my regiment as second in command during the period of our army being in the Peninsula, with Sir John Moore; and had acquired, as will be proved to the Court, by the testimony of most distinguished officers, the good opinion of those who have witnessed my conduct in presence of the enemy. When the regiment was ordered to prepare for foreign service, at the end of the year 1812, I was in a very bad state of health, having about that period ruptured a blood-vessel; I was, nevertheless, as the Court may naturally suppose, most anxious to avail myself of the opportunity of commanding it on a service become so interesting, from the distinguished manner in which our armies had been led, and the field of action in which they were likely to be engaged. My indisposition was of a description which induced a most decided opinion of my medical advisers that I must not go with the regiment, and totally precluded all thoughts of my making the attempt; and Colonel Palmer, who was at that time rather anxious to remain in England, upon some parliamentary business of personal importance to himself and family, took the regiment out to Portugal, and soon afterwards returned, leaving the command with Major, now Lieutenant-Colonel Robarts.

About the middle of the following year, 1813, I thought my health sufficiently re-established to enable me to join my regiment, and I determined, against the opinion of my medical and other friends, to go out. In the little exertion and fatigue produced by the necessity of collecting to carry out, many articles of equipment for the regiment, to supply the losses which had occurred in the campaign, I again broke a blood-vessel; but as this second attack was slight, compared with the former, I resisted all attempts on the part of my medical advisers and friends, to induce me to wait, and determined to proceed, and went to Lisbon, and followed the regi-

ment with all the expedition the nature of the country and mode of travelling, well known to many officers in the Court, would admit; and after a fatiguing journey, joined the regiment in the Pyrenees on the 25th of July, 1813, when I took the command, and continued in it for the remainder of the campaign; and marched the regiment from Toulouse, through France, for embarkation, and came with it to England.

I have been induced to trouble the Court with this detail at greater length, in consequence of the allusion to my state of health, and the question put to Lord Combermere, whether I reported myself in an ill state of health: I certainly never did, and think the Court will allow me to avail myself of this question and answer of my prosecutor, as a strong proof of my zealous and anxious wish not to shrink from the most active service; for it must be obvious, from the nature of the attack which had prevented my joining the regiment before I did, that I must have very frequently felt the effects of the bodily exertion, as well as the exposure and privations incident to the service in which we were engaged.

I had certainly to lament during this service that the irregularities committed by many of the men, upon which I shall have to enter into more detailed observations when I come to the fourth charge, had occasioned the censure which the Court have heard, as contained in the letter from the Adjutant General of the 30th of March; for it was certainly never stated, or hinted to me that the cavalry orders of the 26th February were intended to be applied only, as stated by Lord Combermere, to the 10th Hussars; being well aware that irregularities did occur in other regiments, and not supposing that a general intimation of censure would be issued, which those who might hereafter read the orders issued during the campaign might attach to regiments not in fault, and not feeling conscious that any particular grounds of censure attached to my regiment. I do not state this with the slightest idea of calling in question the accuracy of Lord Combermere's statement, still less have I the presumption to call in question the propriety of issuing such orders, but to account in some measure to the Court, for the surprize with which I have heard that my conduct had so much excited the attention of my superior in command. Whatever might have been my private feelings as to the justice of the censure which

was communicated to me, as applied to my conduct, I submitted and endeavoured to profit by it, and trust I did; and if I have erred, from any mistaken principles of lenity, and desire to avoid too frequent recourse to corporal punishment, upon which I shall have occasion to make some further observations when I come to the fourth charge, I considered myself as sufficiently punished (and the Court will, I am sure, admit that the censure communicated to me, was no slight punishment) and I returned from the army and continent with my regiment, without having had the most distant intimation which would lead me to suppose that any thing which had occurred in my command, had in any manner tended to cast the slightest imputation upon my character as an officer, either with reference to my personal conduct in service before the enemy, or in the command of my regiment; nor did any thing after the letter of the 30th March, seem to give me the slightest suspicion that I had in any manner forfeited the confidence of the officers of it. The thanks of the commander of the cavalry had been given to myself by name, and the officers and men of the 10th, on the 1st of March, for the occurrences of the 28th of February; the very day on which, in the second charge, I am accused of dereliction of duty; and were repeated on the 2d of March, by Lord Edward Somerset, the commander of the brigade, who states himself to be satisfied, that with troops thus disciplined, (having specified the 10th and 15th Hussars) the most complete success might be expected to attend the future operations of the army. I was permitted to receive, and to continue to enjoy the honour attached to such approbation, with the full consciousness of having contributed my humble efforts to merit them, and to believe that no one disputed my claim to them. I continued to live upon the same terms with my brother-officers, and with one of the officers, Captain Lloyd, who has been a principal witness against me, made an excursion on our way home, of pleasure, to Paris, upon the most friendly footing of personal intercourse. Under these circumstances, and with these feelings, the Court will judge of my surprize and astonishment at being first apprized by Colonel Palmer, on the 15th of August last, that he had a letter from the officers, imputing misconduct to me in the late campaign, which he was requested by them to deliver to the illustrious personage who has so long honour-

ed and distinguished the regiment by his personal command of it, but which he wished me first to see. I instantly rejected (as the Court may suppose) any idea of first seeing any such letter, and only stated that my conscience fully acquitted me of having ever afforded to my country, or the officers of the regiment, any ground of complaint, and that I was perfectly ready to meet any charge which might be brought against me. Of this letter I heard no more, until it was delivered to His Royal Highness the Prince Regent, the colonel of the regiment, on the 18th of August. The Court will naturally conclude that His Royal Highness would not receive, or allow himself to be made the medium of any private communication upon such a subject in such a manner; and the letter, upon being delivered, was accordingly read, for the first time, in my presence. It was dated on the 9th of August, and signed by all the officers of the regiment, including the subalterns, except Col. Palmer, (who, however, avowed his concurrence in opinion with the other officers) Major Howard, the Adjutant, Captain Bromley, Lieutenant Meynell, and Lieutenant Holborn, who refused to sign it. The court will find among these signatures, not only the names of officers on service with the regiment at the periods alluded to in the charges, but of others who were only with the regiment a very short part of the time; of others who were not upon the continent with the regiment, during any part of the period to which the charges apply; of others who never were on the continent with the regiment at any time; of others, who though on the continent, were detached upon the staff, and never with the regiment; and of one or two who did not belong to the regiment at the time, but have joined since the peace. I call the attention of the Court to this circumstance, because it affords a much more conclusive proof than any other which could be given, or which it could be possible for me to lay before the Court, upon a subject upon which direct proof is not easy to be procured, (for I cannot call the persons who are actually concerned to state their own misconduct) of the sort of spirit which exists, and must for a long time have existed in the regiment. I may ask what sort of spirit must prevail in a regiment, in which officers, so circumstanced, could be asked to sign such a letter? For it cannot for a moment be supposed that many of them, more particularly the subaltern officers, and

those who have lately joined, could sign such a letter without solicitation; for the Court will observe, that independent of any considerations, as to the propriety of such a proceeding, in a military point of view, the last letter written in the names of all the officers states, not merely reports, in which it may be said all the officers were interested, but that *the opinion* of the officers was injurious to my personal honour, with reference to my conduct in presence of the enemy, of which conduct, the greater part of them could not have the least personal knowledge. Or may I ask what sort of spirit must prevail among the superior officers, who could permit their subalterns, most of them very young men, and some of them, from their late entrance into the service, not conversant with the usages of the service, to sign such a letter, even if they were desirous of doing so?

I immediately applied to some of the officers for the charges which they had against me, and was told they did not wish to bring forward any charges, and had none therefore to give; and accordingly, the letter dated the 9th, was followed by another, dated the 20th of August, in which my prosecutors disclaim any wish or intention to bring forward charges against me; but at the same time, with a consistency and delicacy which seem to constitute a prominent feature of the conduct of my prosecutors towards me, state not only that reports out of the regiment, of which the utmost industry of many of my anxious friends has been utterly unable to discover any trace, and which, if they had any existence, must, from the very peculiar nature of the circumstances and of the charges, have originated in themselves, and been an echo only of their own aspersions, but that the general opinion of the officers (in whose name, the Court will observe, the letter is written) is so injurious to my personal honour, as to my conduct before the enemy, that they could not, consistent with their own feelings, refrain from stating the fact. The honour which I have enjoyed in the countenance afforded me by His Royal Highness, as an officer in his regiment, and filling a high rank in it, is stated as a reason for not making me the subject of public prosecution; and delicacy towards His Royal Highness and his situation, is stated as the reason for having concealed my misconduct, and other circumstances, for such a length of time, and borne with patience so long, the misfortune of serving under me.

I ought to feel no surprise at the conduct towards me in the whole of these proceedings, of those who could state His Royal Highness's favour as a reason for not prosecuting one, who had, in their opinion, so totally forfeited all claim to it, and who could hint at the delicacy of his situation, and at the same time, endeavour to make him a party in, and privy to, a disgraceful compromise of a question which could admit of no termination if the regiment had been commanded by a person not so situated; and which, if it could take place in any other regiment, would be most cautiously kept by all who were concerned from his knowledge in particular; and at the same time, not merely make him a party, but attempt to use his exalted station as the instrument of effecting such a compromise.

The letter also of the 20th of August, instead of transmitting the whole letter of the 30th of March, which has been read to the Court, and accompanied, as it ought in candour to have been, by a statement that the information as to Serjeant Robinson was incorrect, contained only the extract relating to myself.

The exalted station of His Royal Highness and the duties attached to it, preclude me from availing myself of his testimony to these facts and circumstances; but he has been graciously pleased to place these communications with him as colonel of the regiment, in the hands of the Adjutant General of the army, to lay the same before the Commander in Chief; and they have been with the other documents belonging to the charges exhibited against me, deposited in the hands of the Judge Advocate General, and which I humbly request may be now laid before this honourable Court.

It may naturally be supposed that after what had passed I courted and demanded the fullest public investigation; and it followed, as the Court will I am sure perceive, as a necessary and inevitable consequence of the circumstances I have stated, and not as a mere subject of command only, as stated by Colonel Palmer on behalf of himself and his brother officers, that the commander in chief could pursue no other course than to order Colonel Palmer, as the senior officer, and the medium of the complaints of the others, and who had avowed his concurrence of opinion with them (though he had not signed the letter), to deliver charges and conduct the prosecution. It seems hardly possible that my prosecutors must

not be aware that it could not be permitted to the officers of a regiment to impute misconduct of such a nature to the commanding officer without proceeding further, and making their imputation the subject of charge: any other course would be utterly subversive of all military discipline; yet it has been stated by Colonel Palmer that there never has existed in the minds of my prosecutors a wish to make my conduct the subject of charges; that delicacy prevented their doing so in the first instance, and that the same motives of delicacy produced the delay which has occurred.

Do my prosecutors mean to state as an act of kindness, or as a proof of the delicacy of their feelings towards myself, that they only meant to prove to the illustrious person in whose regiment I have risen to the honourable station I fill in it, that I was utterly unworthy of his countenance or favour, and had disgraced myself as an officer and as a man—that I had sullied the character of a regiment which he had so highly distinguished by his personal attention to its concerns, and to those who had served under him in it, but that they had no intention of making me the subject of public prosecution?

The nature of such delicacy of feeling I confess I am utterly at a loss to comprehend; and for the kindness intended me by such a course of proceeding, it could hardly be supposed, even by my prosecutors, that I should feel very thankful.

The peculiar situation in which I am placed by the circumstances to which I have alluded, will, I trust, induce the Court to excuse my having occupied some portion of their valuable time with this preliminary statement.

I will now proceed to the charges.

Upon the first charge, relating to the foraging in the valley of Macoy, it will not, I trust, be necessary for me to trouble the Court at any length.

It is proved by Brigade Major Jones, that the brigade order of the 9th of January was sent about four o'clock in the evening, the distance being about three miles, and the roads very bad, and I will prove that I did not receive the order until after dark. The description of the roads and nature of the country, with the difficulty which Captain Lloyd states he experienced in finding General Morillo's head-quarters, when sent after the regiment arrived in the valley, will satisfy the Court that it was impossible to send after dark on the evening of the 9th to

General Morillo: nor should I, from the wording of the brigade order, have thought it absolutely necessary to send on that evening, if it had been possible. I gave orders, therefore, to the adjutant on the evening of the 9th, to send a subaltern officer at day-break to General Morillo to request a covering party, and proceeded in the morning to the valley. The Court will have collected from the evidence, and will see by a map which was produced by Brigade-Major Jones, that the valley was occupied towards the right of Macoy by the Spaniards, and from the church of Macoy (where an English picquet was stationed) towards the left by our troops. The Court will also observe, that the brigade orders direct the 10th Hussars to forage to-morrow in the valley of Macoy, and the order then goes on to state, that in future, when a regiment foraged in that valley, the officer commanding should send a report to General Morillo. The order also afterwards states, that General Morillo had reported some forage collected for his own troops, which was to be respected. I could not but conclude, from this wording of the order, that he was aware that the regiment was to forage there on the following morning, (for it was clear that communications had taken place between General Morillo and head-quarters upon the subject of our foraging there); and I therefore considered myself certain of being covered in the foraging, without much previous preparation or notice, more particularly as the valley was occupied in the way I have described. Upon arriving in the valley, and not finding the officer who had been sent on, or a proper covering party, I dispatched Captain Lloyd to General Morillo. A few men turned out while he was gone, the Spanish picquets were in our front, and an English picquet at the church of Macoy; and concluding that my last message to General Morillo would soon give us a sufficient covering party, I allowed some of the officers and serjeants immediately to look for forage, and some of the troops, when forage was reported, subsequently began to forage. The interruption given by the enemy has certainly not lost any of its importance, particularly as far as relates to fire, in the account given of it in evidence. The Court will, however, observe that neither man nor horse was lost by the fire, and that the Spanish picquets ultimately repulsed the French attack, and the foraging might in fact have proceeded, and been resumed where it had been interrupted,

if I had thought it advisable and a fog had not come on. From this interruption, however, and the time lost by it, and from the weather, it became quite obvious that nothing further could be done in foraging in the valley that day, and I, therefore, took the regiment back, foraging as we returned up the hill, leaving, as has been stated, the troops nearest where the enemy had advanced in the valley, but naturally (as I conceive) concluding that they would follow and overtake, or fall in with us by a different road. The charge against me is, that I made no timely arrangements, and left part of the regiment without orders or support. I trust I have given a complete answer as to timely arrangements; and I cannot but conceive that there is some misconception, on the part of the prosecutors, as to the nature of the service, and my duties in it with reference to the other part of the charge.

I have always conceived that from the very nature of the service, and more particularly in an enclosed and deeply intersected country, in which cavalry could not act with effect, and could with difficulty even communicate, that it required no order to any officer commanding a troop, who was sent or permitted to forage with his troop, to retire if an attack was made, or if he could not, from weather or any other causes, with safety continue to forage. I have also always conceived that upon such a service, and in such a country, when the troops of a regiment separated to forage, that every officer of a troop formed his own support; and I, therefore, hardly know what meaning is intended to be affixed by my prosecutors to the term support, as applied to the regiment; for if the troops were all separated to forage, which was the very purpose for which they came, the support of the regiment, which is what seems to be alluded to, certainly no officer could look for.

It is also distinctly proved that the country was such that the cavalry could give no support; for they could not act in it against infantry, and must necessarily retire if infantry advanced; and as to an attack of cavalry of the enemy, which has been mentioned, with the question, whether if a superior body of cavalry had advanced, the witness would have attacked, expecting support, it appears to me an abstract question, not arising out of the case, or the nature of the service, or the circumstances; for it is obvious that no attack of cavalry could take place in such a country; and accordingly the French had so few with them, that one of

the witnesses for the prosecution is not sure whether those who are called cavalry, were more in number than would constitute the mounted officers of the French infantry. The question, therefore, which is put, appears to me, with great submission to the superior judgment of the Court, to be utterly inapplicable to the nature of the case. Rendezvous has also been alluded to as not appointed in case of an attack: upon which I have only to observe, that to have appointed one was inconsistent with the nature of the service, and roads, and country, and could only have tended to embarrass officers of troops dispersed in different directions to forage. The country did not admit of any such attack as could make a rendezvous necessary, and the appointing one could not have been beneficial, but might have done mischief. The only course, and that naturally arising out of the nature of the service, and not the subject therefore, of particular orders, was to retire upon the advance of the infantry by the most convenient road through the Spanish or English picquets and cantonments towards the head-quarters of the regiment. There were different roads, and in such a country, where in many places the cavalry were obliged (as the Court have heard) to move in single file, instead of attempting to rendezvous, if any general attack had been made by the only force which could act, namely, infantry, the sole object of attention would necessarily be to disengage the cavalry from the valley by as many different roads as possible that they might not impede each other; and upon the same principle with reference to support, it is clear that instead of attempting support, which could not be given, the main object in view was to leave as many roads open as possible, that the cavalry might not impede each other if pressed upon; for the Court have heard that infantry could move nearly as fast as cavalry.

The next question which is made is, whether I ought to have gone away myself and led the regiment up the hill; upon which I can only say, that as all further attempts at foraging were abandoned, I cannot conceive that it was my particular duty to go to, or remain with the troops in the valley, which I naturally concluded they would immediately quit by the nearest practicable road. I think I have shewn that the regiment could not assist the troops by advancing towards them, or remaining, but on the contrary, would only have created confusion, if it had advanced to meet any troop at-

tacked by encumbering the road, and preventing the only thing to be done, namely, an immediate retreat. That I was most anxious about the troops left, is proved by one of the captains, who stated my anxious enquiry about his troop when he came up without it. That I formed a tolerably clear judgment as to the situation of those left, and what had happened, is also proved by my having stated to the serjeant, and also to Brigade Major Jones, when asked whether great loss had not arisen, that it could be only a few men and horses; for though from the nature of the country, it was not easy to get any extended point of view, I saw clearly before the fog came on, from the situation of the foragers, and the direction of the fire, that the only loss which could arise would be of a few men, who might be surrounded in a farm-yard while getting the forage, and even that probably from their own want of caution; as every cavalry officer well knows how difficult it is to make the men attend to the precautions which are so strictly enjoined, and that unless the officer is actually with them they will tie their horses up, and all go at the same time to get forage, with a view to expedition. The only remaining subject of observation is, that I led the regiment up the hill, and was not in the rear. Upon this subject I cannot but think that the Court will perceive, that there is an insinuation rather than a charge, attempted to be conveyed in a case which does not admit of either, as if I was out of my place to be the first to get out of danger. Let me ask whether such an insinuation is justified by the evidence or the nature of the case? We had never passed beyond our own picquets and those of the Spaniards; we were all the time within the ground occupied by our own and the Spanish army; the attack was merely an advance of the French picquets to drive in ours and prevent our foraging, and which attack was repulsed; and the very few shots that came near any part of the regiment, and not near us, for none came near us, neither wounded man or horse; and yet the question is put as if we were retreating engaged and in presence of the enemy, when I was only quietly leading back from foraging towards our quarters, meaning to procure what little forage could be got in going up the hill, and in our way back; and accordingly some little was procured as we returned by my directions. I hope I am not too sanguine in thinking that I have given a full and distinct explanation of every circumstance connected

with this charge, and a complete answer to it. But I will suppose for a moment that I may be wrong in some of the conceptions I have ventured to state upon points of military duty, and that there may be differences of opinion upon some of them; and I will then venture to ask, whether the occurrences of that day constitute a fair subject of charge at such a distance of time. It would be presumption in me to suppose that I executed every part of the duty entrusted to me during the campaign in such a manner as to leave no subject of comment to those who are inclined to cavil. How few transactions are there of a man's life in which when he looks back, he does not feel that if the opportunity was to occur again he could perform the same thing more to his own satisfaction. Is there no difference between an officer performing his duty in such manner in every minute particular as to escape the criticism of those under his command, who may be watching for opportunities of cavil, and being made the subject of criminal charge? I will not occupy the time of the Court longer upon this charge.

The second charge is of a more serious nature; for though my prosecutors have endeavoured to word it in covered terms, it is impossible for the Court not to perceive that it was intended by the charge, and is attempted by the evidence, to impute to me that I misbehaved in presence of the enemy, and that it is intended, as in the terms of the letter, to attack my personal honour in my conduct before the enemy.

The charge has been divided into two distinct heads of evidence: the first, for not being in my proper place as commanding officer, under the circumstances which have been detailed in evidence, and not only not supporting, but keeping back the support, even of the men, from those who were actually engaged; and the second, for improperly and unnecessarily retreating the centre squadron of the regiment, and leaving it to the officer commanding it to take the command from me, by giving counter orders, and halting and fronting his squadron while retreating.

Upon the first part of the charge, it appears, that the regiment was in column of divisions, advancing rapidly to press the enemy, upon a road just admitting of a front of a division, which, as we were then not very strong, consisted, as has been stated, of about twelve files. The skirmishers, consisting of part of the picquet under Lieutenant Eversfield, and some who had joined

him, were as usual in front; and that soon after the skirmishing began, Colonel Palmer, who commanded the right squadron which led the column, went forward to the skirmishers; and it is stated, that immediately previous to the clash with the enemy, I kept back the men, by telling them not to blow their horses, and also that I reined in my own mare, in consequence of which, the men separated to pass me.

This latter account is only given by one witness, and not attempted to be confirmed by any other; and I am willing to suppose that the supposition that the division was dividing to pass me (as certainly no such circumstance took place, for I was on the flank, and not in the front) arose from the circumstance of such separation taking place to avoid the fallen horse.

The first subject of consideration in this charge is, where I ought to have been at such a time, and under such circumstances: upon which point Col. Palmer has called Colonel Elley to prove that he would look for the commanding officer of a cavalry regiment, with the leading squadron nearest the enemy, which he considers his place, that he may see the conduct of his men, and be ready to take advantage of opportunities of attacking the enemy. It certainly was not necessary to call Col. Elley to state a proposition which no person could dispute as a general rule, and I am therefore perfectly ready to adopt his testimony; for all the evidence has proved that I was, during the whole time of our following the enemy, and until we were halted, in the situation specified by Col. Elley; and I have very much misconceived the nature of my duty, if he, or any honourable member of this Court, would have expected to find me engaged with the skirmishers in the front, or charging with the front files of the supporting division in such a case. Col. Palmer commanded the leading squadron, and was with the officer of the picquet and skirmishers, and the troop-captain in front, performing his duty, certainly, with great activity and gallantry; and it appears that the supporting division was so near, some saying thirty, others twenty, others fifteen yards, that the momentary check of the front, produced by the clash with the enemy upon the charge, brought up the head of the division, and that the whole then followed the enemy in pursuit. Col. Palmer has asked, by way of contrasting the conduct of others with mine, and of course, for the purpose

of proving that I was not in my proper place, where was Colonel Robarts when the regiment charged at Moralles? I will not waste the time of the Court by commenting upon the spirit and motives which have dictated this, and similar questions in the other charges, but proceed to shew that in this, as well as in the other charges, there must be some strange difference between me and my prosecutors, as to the course of military duty, and what is required of an officer in command, and the sort of cases alluded to in the charges.

What was the case in the affair at Moralles? It was the first appearance before the enemy of the Hussar brigade, as a brigade of cavalry; and the charge was made upon ground admitting of an extended front: and I have always understood that the front of the 10th, which was most forward, consisted of two squadrons, with another squadron a little refused on one flank, and another regiment of cavalry, a little refused on the other; and it is therefore stated in evidence, that even General Grant, who commanded the brigade, put himself at the head of the charge. Did Lord Edward Somerset, who commanded our brigade, think for a moment of putting himself at the head of the charge, in the instances stated in evidence to inculpate me? The attempt to put the two cases in comparison with each other, at once illustrates the difference of opinion which exists between my prosecutors and me upon this point. I admit, that if the regiment had been advancing in a different formation, and had admitted of a charge of any such proportion of its front, as to be considered in any manner as a charge of the regiment, that it would have been my duty, as it may be under peculiar circumstances in other cases, to lead the charge; but I have never understood, or heard it asserted, that in a charge, such as has been described in the evidence given upon the second charge, in which even the skirmishers formed a front, which occupied the whole road, and in which none could take any actual personal part, but the twelve or fourteen files in front, that the commanding officer of the regiment ought to charge at the head of those files, instead of leaving it to the squadron and troop officer, whose duty it is, upon the same principles which impose that duty upon the commanding officer of the regiment, in case of a charge of a more extended front. I have always understood the rule and practice of the service to be as I have stated

it; I certainly acted upon the supposition that I was performing my duty, and that to have put myself more forward under such circumstances, would have shewn an eagerness (pardonable in a young officer in an inferior command) at the expence of my judgment; I may be wrong in this supposition, and there may be differences of opinion upon this subject, although I have never heard that there are any upon the sort of case stated. It is for the Court to decide, but I am firmly convinced, even if any of the members of this honourable Court thought me wrong in the conceptions I have stated, that they would not, upon so serious a charge, impute to me the motives which are the foundation of it, but that I should, in such a case, have the full benefit of the testimony which I will lay before the Court, from officers who have before seen me in presence of the enemy.

The next point which has come under consideration, is whether, if I ought to have so charged, I was able to do it; and upon this point, my prosecutor is kind enough to admit, that if my horse was blown, I ought to be acquitted of this charge. Serjeant Lacey states that my horse was blown at the moment he passed me to the front, to join in the charge; other witnesses state that my horse did not appear to be blown: and this contradiction has led to a good deal of evidence, as to the general state of the horses, and their comparative condition with reference to former periods, and the affair at Moralles. I do not attach the least importance to this point, for I rest my defence upon no such ground; but as so much has been said upon it, and contradictory evidence given upon the state of the horses on that day, I will trouble the Court with one or two observations upon it, more particularly as it has been asserted, that the horses were in better working condition than when they charged at Moralles, an assertion which excited, I believe, the surprize of all who heard it stated; as it is difficult to conceive, that horses, which had been living during part of the interval upon furze and inferior forage, and gone through a winter, which is well known to affect blood-horses, and horses partly blood, of which the 10th principally consists, could ever be in better condition for work. I notice this now, for the purpose of shewing, that in the anxiety to convict me, the horses are either in better condition or worse, according to the nature of the charge. To prove that the horses could

not be distressed, they are stated to be in better condition in this charge; and to convict me hereafter of negligence, under the fourth charge, the Court will find they lost their condition under my command, although applying to the same period. The Court will naturally suppose that I do not ride inferior horses, or that my horses are out of condition; but it is well known in the regiment, that not only the mare I rode on that day, although a very good one, and capable of going a very good pace, but also a great many of the officers' horses, are not equal in speed to very many of the troop horses; the regiment containing, as is well known, a large proportion of horses of great speed, from the circumstance to which I have alluded, of so many of them being blood-horses, or three parts bred. I will prove to the Court that many of the horses were very much pressed, and consequently distressed at different periods of that day, while in pursuit of the enemy; but as I have before said, not for the purpose of resting my defence on this ground: at the same time, I have no difficulty in asserting that Serjeant Lacey, who is a light weight, and had a very good and fast horse in the sort of race which took place from the circumstance of the small extent of our front, which admitted of a greater exertion of speed of each individual horse than can occur in a charge of more extended front, could have beat me; and I have no doubt, therefore, that he passed me as he has stated, although I have no particular recollection at this distance of time of the circumstance, or of making any particular observation as to the state of my own mare on that day; although I think from the speed of many of the other horses, it is very probable, that no exertion of mine would, at the moment alluded to, have brought me to the point which would have satisfied the ideas of my prosecutors.

The next point which has been made the subject of consideration is, whether I prevented, rather than urged, the men in supporting the charge; for the evidence which has been given of my telling the men to keep their horses in hand, and not to blow them, could have no other object but to induce a belief in the Court, that I kept back the men from a wish not to be forward myself. This is consistent with the case of the prosecutors, and with their views of my duty, but it is utterly at variance

with my conception as to my duty, and is completely inconsistent with all the other evidence in the case.

I certainly was anxious (as every commanding officer of cavalry is in such cases) at various periods during the pursuit that the men should not blow their horses; and I have no doubt that at different times I gave the sort of caution alluded to; but it is most clearly and distinctly proved by a variety of witnesses, called by my prosecutors, that I was still more anxious, when occasion called for it, to use the power of strength and speed in the horses (which ought always to be kept in hand in cavalry when possible,and which I considered it my peculiar duty to preserve for such occasions) to the fullest possible extent; and that when the men were passing me at full speed, I encouraged some, and urged others, (who have stated that their horses were doing all they could) not to spare their horses: and this evidence will I trust appear to the Court to be conclusive as to this charge, in more than one point of view; for it not only disproves anywant of energy on my part to support those who were actually engaged in front; but it also clearly shews, that I conceived that I was in my proper station, urging on the men who were passing me; for it will hardly be supposed that if I had felt that I ought to have been with the skirmishers in the front, or even at the head of the front files of the leading division, that I should have been on the flank, calling the attention of my men to so glaring an inconsistency, and want of personal energy, as that of urging others to pass me, and go forward, when I ought according to the conception of my prosecutors to have gone first.

It has also been stated in evidence that the word was passed for me, and that I was sent for by Colonel Palmer to the front; circumstances of which I heard, and with some surprize, for the first time, when it was stated in Court. I will make no comment upon my being so sent for, nor upon the manner in which the order for fetching me was executed by the officer entrusted with it; but may venture to assure the Court that its singularity would have made it quite impossible that I could have forgotten it, if I had been aware that I was called for in the manner stated by Captain Fitzclarence.

Upon the subject therefore of the second division, if I may so call it, of the second charge, I cannot help feeling confident that it is quite unnecessary for me to trou-

ble the Court further upon it, than to prove, which I will do by a witness or two, for the reasons I have mentioned, that a great many of the horses were severely pressed on that day; and I will therefore now proceed to the second part of the second charge, that of retreating the centre squadron, and having it fronted contrary to my order by its squadron officer: upon which it is sufficient for me to state that I will prove that I myself gave the word to front the squadron. It is not said that it was not proper, upon receiving the fire of the infantry, to retire out of the immediate reach of fire; and I will prove that as soon as that was done I fronted the squadron again, to be ready for whatever might occur. The result proved that I had acted properly in retiring, for the regiment was ordered by Lord Edward Somerset not to advance again until the infantry came up.

But admitting, for the sake of argument, that Captain de Grammont thought I was retiring too far, and that at twenty yards before we reached the point which I thought the proper place to halt, he had called out Halt, and fronted the squadron, would such a circumstance not rather prove him than me to be in fault; for the Court will not fail to notice the most essential difference between the two cases, of whether I retired before the enemy, when I ought to have advanced or remained where we received the fire, and whether any other officer differed with me as to the precise proper point of halting. If the fact did occur of Captain de Grammont giving any such word, which it would be his duty to do after me, before I gave it, I did not perceive it, and never heard it stated until I heard it given in evidence in this Court. Nor if I had heard of such a fact, and it had not been done in such a manner as to compel me to observe it, should I have thought it a fit subject for serious notice, making allowance, as I should have done for youthful and eager spirits, at such a moment of exertion, any more than I thought it necessary to notice a fact which did occur on that day, but did not come to my knowledge until some time afterwards, of Captain Fitzclarence, upon his own judgment, ordering up Colonel Gardiner's guns, which was discovered only at the time, though I did not hear of it until long afterwards, in consequence of Colonel Gardiner's finding when he brought up the guns that they were not in a safe position, and being satisfied that they could not have been ordered there by any proper

authority, and of his insisting upon one of the serjeants finding out who sent for them; and which circumstance I mention only to prove to the Court the sort of vivacity, if I may use the expression, which prevailed that day upon the subject of command, not of the regiment only, but of part of the brigade.

With these observations I will leave the second charge to the Court, with a perfect reliance upon the result of their decision upon it.

Upon the third charge the evidence has been very short. I am stated to have been in front with Lord Edward Somerset until the regiment approached the top of the hill when the French infantry fired, and I am supposed immediately to vanish. No person is called who saw me go, nor is enquiry made, or an account attempted to be given of what became of me; except that Lieutenant Seymour is called to prove that as he was coming to the front to see what was doing, he met me on the left flank going to the rear, where I certainly did go immediately after Captain Fitzclarence was wounded, to obey the orders I had received, and where, it is very probable, therefore, that he might meet me, although I have no recollection of having seen him at that particular time. I cannot but conceive that the Court will agree with me in thinking that a charge of this description attaching disgrace and loss of every thing dear to a soldier and a man, ought not to be preferred but upon the fullest enquiry and most accurate investigation of the facts. A little common charity, and a very small portion of that delicacy of feeling for which my prosecutors are desirous of claiming so much merit, would, I should conceive, induce an inferior officer to pause, before he permitted himself to think that his superior had deserted his duty, and dishonoured his personal reputation in presence of the enemy, because, upon looking round at such a moment he did not see his commanding officer at his side: the same charity and feeling might induce him to suppose that his commanding officer was engaged in the performance of his duty elsewhere, until the contrary was shewn; and the same feeling, would require some evidence, if suspicion had been allowed for a moment to prevail, that there was better ground for the imputation than has been produced. If any such feelings of common charity towards even an enemy, or delicacy towards a superior in command, had led to any enquiry

as to facts, by my prosecutors before this charge had been preferred, the Court, I am satisfied, would not have been troubled with it. I am not surprized now at finding that my prosecutors were ready, upon the slightest grounds, to impute any thing to me which could justify them to themselves for the conduct they have pursued towards me; but I will prove that the same fact did not produce the same feeling where there did not exist the same prejudice.

The facts relating to this transaction I will shortly state and prove to the Court.

Immediately after the fire of the infantry I went into the field to the left of the head of the regiment, just by the side of the road, to see if I could where the infantry were, and whether it was a body of infantry or only skirmishers, and the nature of the ground on our flank; and not seeing any thing to enable me to judge of the force in front, I instantly returned to the head of the regiment while the fire was going on, and before Captain Fitzclarence was wounded; and I will distinctly prove, by four or five different witnesses, that I was actually present when he was wounded, and that I told him to go to the rear. One witness recollects Captain Fitzclarence speaking to me, and saying that he was only slightly wounded, and that upon my repeating my wish that he would go to the rear, he did so. I immediately received orders to take the two rear squadrons in another direction with Lord Edward Somerset, and instantly proceeded to the rear to execute the order, and Major Howard's squadron was put about and retired some little distance and went into a field lower down the hill near the road out of the reach of fire. I must have been going to the rear for the purpose of obeying Lord Edward Somerset's orders when Mr. Seymour passed me, for I positively assert that I did not go to the rear before; and the interval was so short between the receiving of the fire and all these operations being performed, as hardly to admit of subdivision of the time, and to make it quite impossible that the fact could be otherwise; and the proof which I will give of my having returned while the fire continued, and therefore immediately, and of my being actually present when Captain Fitzclarence was wounded, is conclusive upon the only fact or point of importance to me or the Court, namely, whether I quitted the head of the column to get out of the reach of the enemy's fire;

for all the other details are immaterial. Upon this charge also, I cannot but call the attention of the Court to the cruel situation in which an officer is placed who is called upon at a distant period, without having entertained the most distant suspicion that his conduct was to be called in question, to account for every moment of his time by evidence in so hurried a transaction, and occupying so short a period of time, as that which is the subject of the present charge. Common experience proves that general recollection of circumstances to which attention is not particularly called, is at such a distance of time so vague that if six different people were asked as to the same transaction, they would probably all of them, most honestly speaking what they thought, give different accounts of circumstances to which their attention had not been called. My prosecutors, whose attention seems to have been excited to every thing I said or did, immediately missed me; but scores might have seen me upon that occasion and retain no recollection of it.

Fortunately for me, the circumstance of Captain Fitzclarence being wounded, and my speaking to him is so marked a fact, both as to the fact of my presence and the time, as to leave nothing to loose testimony and vague conjecture. With these observations I leave this charge. When I have given the evidence to which I have alluded. I think the Court will agree with me in thinking that a different feeling towards me in my prosecutors would have produced more cautious enquiry, and saved my prosecutors rather than me the disgrace of this charge having been the subject of discussion.

I now come to the fourth and last charge, upon which, after the evidence given upon it, it is necessary that I should request the indulgent attention of the Court to some further observations upon the peculiar situation in which I stand with respect to it, as well as to the facts and circumstances connected with the charge itself.

I have in the preliminary observations of my defence, stated to the Court, my entire ignorance, until the communication made to me by Colonel Palmer upon the subject of the letter, that any thing had occurred on the continent to produce any impression unfavourable to my general character in the command of my regiment. Lord Combermere has stated that he had on one or two particular occasions stated his dissatisfaction to me upon the subject of the baggage and march, but had never

expressed to me any general dissatisfaction at my mode of conducting the command of my regiment; and nothing which occurred, up to the moment of his lordship's appearance in Court against me as a witness, had led me to suppose that he entertained any such opinion as has been given to the Court: on the contrary on applying to his lordship to attend as a witness for me, he had expressed his wish to be saved the trouble of attending, as he did not know that any evidence he could give would be material to either party. I had continued in the command of the regiment, marched it through France in the most perfect order and discipline, and without any complaints against the men, brought it to England, received, as I will prove, the approbation of the general officer who inspected it in France, and the approbation of those who saw it, and upon its return to this country, for its state and condition both as to horses and men; and I had therefore certainly conceived (erroneously as it now appears) that any unfavourable impressions produced by the irregularities which had given rise to the letter of the 30th of March (founded as that letter was, as the Court will recollect, upon a misconception, as to the immediate outrage or misconduct which had occasioned the letter) had totally ceased; as from that moment not the slightest reason had been given me, either privately or publicly, to suppose that the regiment did not stand as high in repute for its discipline, as any other in the service.

The Court have heard in evidence that the regiment was in high order in every respect, when it landed at Lisbon, both as to the men and horses: of which I may be, I hope, permitted in my present situation to avail myself, as having been in the immediate command of it for a long time previous. After some irregularities the men are stated to have became orderly, and the regiment in a perfect good state, as to its discipline, and so continued until my arrival. Upon my joining the regiment, my first attention upon taking the command was directed of course to the state of the regiment; and one of the first circumstances which excited my observation, was the frequency and severity of the corporal punishments, many of them exceeding the limit of punishment allowed to be inflicted by regimental courts-martial. The honorable members of the Court are all of them acquainted with the circular letter of the 25th March 1812, in relation to the extent of corporal punishments by

regimental courts; and are also aware, that although it has not been thought advisable so far to alter the ancient practice as to prohibit corporal punishments entirely, yet that they have been of late years very much diminished; and that most earnest wishes have been expressed, by every branch of authority, connected with the military service, and command of the army, that every possible effort should be made to lessen both their frequency and individual extent; and I need not suggest to the Court, that it could not, under such circumstances, even require the repeated injunctions which I have received upon this subject, from the well known humanity and considerate feeling of the illustrious person, who has so long honoured the regiment by his personal command of it, towards the private soldier in the army, to induce me to strain every effort to endeavour, in the regiment under His Royal Highness's immediate command, to shew that an unremitting attention of the officers to their men, might in a great measure supersede the necessity, or at all events mitigate the extent of corporal punishments, and aid in the accomplishing the object, which has been considered by all descriptions of persons who have discussed the subject, in or out of parliament, as most desirable, of producing a change as to such punishments, although they may have differed as to the practicability of attaining the object, or the prudence of any attempt at a sudden alteration of system. With these feelings long impressed upon my mind, and upon which I had always endeavoured to act, I looked at the list of courts-martial and punishments, which I will lay before the Court, with strong sensations of mortification and regret; and I expressed myself satisfied that a different system, and a strict and unremitting attention to the men in quarters, would in a great measure render recourse to such frequent punishments unnecessary, and that no circumstances could justify the excess of punishment which I observed in direct violation of the orders upon the subject.

The first question therefore which would arise upon this subject would be, whether, I had a right to demand of the troop officers, an unremitting and constant attention to the men in their cantonments and quarters, or, they had a better right to demand of me the trial and punishment, in every case in which they thought it necessary, of men who had committed offences.

I cannot but be well aware that officers of troops must be supported by the officer commanding; but the Court will also, I am well satisfied, concur with me in saying, that unless a commanding officer on service is supported in the duties of his command, and more particularly in the interior care of the regiment, and of the men and horses, that neither severity of punishments nor any other measures will prevent the irregularities which have been the subject of discussion: and I think I may venture to assure myself of the concurrence of the Court in the general principle, that nothing can be more unjust or mischievous in the end to the true interests of the army, however it may apparently produce a good effect at the time, than permitting the officers to substitute severity of punishment for their own personal and constant attention in visiting quarters, as the means of maintaining the discipline of a regiment. I could without difficulty state and prove numerous instances of want of due co-operation with myself in the command. I could prove that my prosecutor, Colonel Palmer himself, permitted me to remain in perfect ignorance of a medical report, stating drunkenness, want of necessaries, and inattention to personal cleanliness, as causes of an increase of sickness in the men of the 10th, which might have seriously affected the character of the regiment, and of myself as commanding it, if not enquired into and answered; although the report was made while he was in command of the regiment, during my absence on a visit to head-quarters, and which he did not report to me on my return; although he had taken no steps upon it himself, and that I only learnt the circumstance, and was enabled to take the proper steps upon it, from a conversation with the general of our brigade, Lord Edward Somerset. I could also prove that he has since stated as a reason for not communicating it to me, that we were not then privately upon a good footing, or upon speaking terms. I could prove frequent and repeated instances of continued neglect on the part of the other officers of their duties as to visiting quarters, and proper attention to the men when not on duty, which every member of the Court will agree with me in thinking are as essential to the well being and character of a regiment on service as the support of the commanding officer to those under him in the punishment of the men: but I should be very sorry to trouble the Court with details which

would lead to a long course of protracted investigation upon a subject so long passed by, and of inferior importance, as the decision of the Court must even on this charge rest upon broader and more general grounds. That I did not think at the time that the officers were sufficiently attentive to their duties, will be obvious from the repeated orders I issued upon this and various similar points of interior management of the regiment. I certainly had reason at the time to think, that I had not that cordial co-operation in the performance of those duties, to which I considered myself entitled: and though I was at that time aware, that there were various circumstances connected with the then state of the regiment, which might in some measure account for this, I certainly entertained no conception or suspicion, that a feeling could exist any where towards myself of a description which has been exhibited by the subsequent conduct of my prosecutors.

I think I may now, after all which I have stated, venture to ask the Court, whether it was probable, nay even possible, that I should have the co-operation and assistance which was absolutely essential to the due care of the interior arrangements of the regiment, from officers who entertained towards me such feelings, as could admit of their subjecting me to the imputations upon which I have been brought before this Court upon the evidence which has been adduced?

I was pursuing a system in which their co-operation was absolutely essential, and I have now reason to know and feel that they were pursuing another system destructive of mine; and I also now too late find that I was vainly looking for co-operation, where I ought only to have been guarding against future attacks upon my honour and character.

It has been asked of Lord Combermere, and of Lord Edward Somerset, whether I ever complained of the officers as the cause of the relaxation of the discipline of the regiment, or stated to them that it arose from their inattention, and not co-operating with me. I certainly never did; for in the first place, if I had been so disposed, it was not called for by any other complaint of want of discipline in the regiment than that which is contained in the letter of the 30th of March, upon which the Court will be so good as to recollect the directions were given as to the conduct of the other officers, and that in consequence of

the last paragraph of the letter, Lord Edward Somerset has most distinctly stated, that he thought it his duty to enforce the necessity of the performance of their duties upon the attention of the other officers; and I certainly considered what passed upon that occasion (although the censure contained in the letter privately read to me was a severe mortification,) as likely most essentially to aid me in the prevention of the irregularities complained of; and I had reason to believe, from the subsequent state of the regiment, and its conduct afterwards, and on the march through France, that I was not mistaken. But independent of this circumstance, I have no hesitation in saying, that nothing but the most absolute necessity could have induced me to make any such complaints as are alluded to, in the then state of the regiment, as I do not think that the exposure of interior dissentions in a regiment, which must have been the inevitable consequence of such complaints, are creditable either to the army or the regiment in which they are found to occur; and I should much rather prefer a patient and steady performance of what I conceived to be my duty, and perseverance in a conduct which might ultimately tend to produce harmony, or at least prove that I was not the person who prevented it.

Upon the part of this charge which relates to my not supporting the officers, I will lay before the Court lists of the courts-martial before and after I joined. In the first, the Court will find the proof of my statement as to the nature of the punishments; and the last will shew, that notwithstanding my most earnest wishes to pursue a different system, I was compelled to resort to frequent and severe punishments, which I might, in my view of the subject, attribute much to the want of sufficient exertion of those means, which can alone, as I conceive, prevent or lessen the irregularities which were the subject of charge, in the cases contained in the lists; and the last list will at all events prove, that I did punish, and with severity, in all cases in which I deemed it necessary, or in which some circumstances of former character, or doubt as to the testimony and guilt of the men reported, did not induce me to think that a trial and corporal punishment might be dispensed with.

With respect to the particular cases which have been alluded to in the evidence, the Court will allow me again ot call their attention to the peculiarity of my situation

as connected with this, and the other charges, namely, the period at which they have been preferred. Many circumstances which, if I had been accused at the time, or even had the slightest reason to suppose I might become the subject of charge at a future period, I might have collected and preserved for purposes of explanation, or evidence, it is quite impossible for me at this distance of time to recal to my recollection. The Court will not expect that I should now without any previous notice be able to state the precise grounds upon which I acted in each particular case. Some I can, and those I will explain. In the case of the orderly serjeant mentioned by Brigade Major Jones, the man was an excellent soldier, and of good character, and had been, as I ascertained, made drunk by wine given him by the Brigade Major's own people. I sent an account of the circumstance to him, with my wishes not to disgrace and disable the man for some time as a soldier, and certainly understood that he acquiesced in his not being brought to a court-martial.

The man brought out for punishment, Private Abbott, I pardoned from his being in a very bad state of health, of which he afterwards died in the hospital; and I am satisfied if all the instances had been earlier brought forward, that I could have stated sufficient reasons for my conduct, although at this distance of time I cannot recal them. The list of punishments actually inflicted, will shew, that I had not adopted the system of excluding corporal punishment, although I was desirous of avoiding it whenever I could without detriment to the service.

I must now notice some of the general facts which are stated by some of the witnesses as proofs of the relaxation of discipline under my command. Colonel Gardiner says, that the discipline of the regiment became very relaxed under my command; and assigns as his reasons for giving the opinion so strongly as he did, that the regiment came late to its ground on marching days three times a week, that the equipments of the men became worse, and the horses out of condition.

Upon the first, I am willing to suppose that there must be some mistake. Upon the second and third, I might, I think, justly complain that I am made answerable even for the effect of the elements.

The men's equipments were certainly not likely to improve in the winter's campaign, but my repeated orders

upon the subject will shew that I was not inattentive to that part of regimental arrangement; and upon the condition of the horses, I must remind the Court, that for the purpose of the second charge, evidence has been called to prove that they were in good condition, and for the purpose of this charge they are stated to have fallen off while under my orders, during the same period of time.

Upon this point I can only add to what I have before had occasion to say upon it, that every officer who has attended to the subject, well knows that blood horses, and those which partake of the qualities of the blood horse, as most of the horses in the 10th do, often thrive better than other horses in the summer, but that they always suffer proportionably more from winter: and the condition which the horses afterwards acquired in the following summer, and in which they were on their return, will prove, that it would not, but for the industry with which every little circumstance is laid hold of to assist each charge, however inconsistent with other charges, have been mentioned.

Upon the general state of the men and their occasional drunkenness and excesses, I will beg the Court to recollect that I joined the regiment at the moment previous to its advancing into France, where the soldiers from its being an enemy's country, considered themselves, notwithstanding every order upon the subject, as less culpable in plundering, and that many of them had acquired money before I joined them, that they got also into a country where wine was at command at a low price, and in abundance, and that the place where my regiment was quartered part of the time, Tafalla, afforded greater facilities in procuring wine, and had more wine houses than almost any other place occupied by other troops, and that it is impossible, therefore, to suppose the irregularities would not in some measure increase from these circumstances.

I have now noticed, I believe, all the material points of evidence upon this charge, and am very sorry to have been obliged to trouble the Court at such length; but before I conclude I must call the attention of the Court to the particular consideration of this charge as it stands in the warrant, and has been supported by evidence, as it appears to me that I am brought before this tribunal upon a charge upon which I have already been most severely

punished. In saying this I beg I may not be supposed for a moment to impute to the right honourable person who has so ably assisted the Court in the discharge of his duty as Judge Advocate any want of caution in admitting it, or to the Court any want of consideration for me in allowing it to proceed; for it will be seen that my suggestion is founded upon the evidence which has been given in support of it, which, whatever knowledge the Judge Advocate or any member of the Court might possess, as to the contents of the letter of the 30th of March, from having seen it officially or otherwise, could not be either with him or the Court subject of legal cognizance until it was produced and proved, and also until it was proved that it had been published or communicated to me; but after the evidence which has been given I hope I shall not be deemed guilty of presumption in suggesting to the serious consideration of the Court, the punishment I have already received, in the censure of the commander in chief, so communicated to me, if they should be of opinion that under all the circumstances which have been proved and which I have alluded to, I have from error in judgment, in carrying the principles of action upon which I proceeded too far, or from any other cause, permitted the discipline of the regiment to relax.

The subject of the charge is one rather more within the cognizance of the commander of the army than the subject of private prosecution by the officers of the regiment. I unfortunately incurred the displeasure of the distinguished officer who has led our armies; and I must ever lament having done so; but I have never had any subsequent reason to think that any unfavourable impression remained upon his mind upon the subject of it. I asked for the letter, or a copy of it, at the time of its being read, with a view to requesting an enquiry upon my conduct in the command of the regiment, that I might have the opportunity of bringing all the circumstances with which I have now troubled the Court, under the consideration of the commander in chief in my exculpation; but was told by Lord Edward Somerset that he considered it as a private letter to read to me, and make the subject of an address to the other officers, but that he did not consider himself as authorized to give me a copy of it. This, though Lord Edward Somerset does not appear to recollect it, is too deeply impressed upon my mind to make it possible that I should ever forget it.

I submitted in silence therefore, and without a murmur, to the reprehension I then received; and I cannot but hope that if the Court are of opinion that I have erred upon the subject of this charge, they will at the same time think a sufficient punishment immediately followed the offence. I have read in the public papers before the commencement of this trial from day to day, paragraphs courting public applause upon my accusers, and giving partial extracts from the letter alluded to with comments, highly injurious to my character as an officer and a gentleman. To such attacks I disdained to make any answer, but waited with eager anxiety the opportunity of justifying myself before this Court.

I have now to apologize for having occupied so much of your valuable time, and to thank the Court for having, at this period of the year, when so many of its members must have been called to attend at great inconvenience, afforded me the indulgence of an adjournment for my defence.

I leave my honour and character in your hands, where I am sure they will be safe; and I trust that by your sentence of an honourable acquittal they will be restored to me pure and untainted.

Judge Advocate General. Before Colonel Quintin begins substantially on his evidence in defence, he wishes that General Cartwright may be called as a witness to character: the reason is, that General Cartwright has been inconveniently detained already in town: other duties requiring his attendance elsewhere, he is desirous of being examined, in order that he may be released; and I should submit there can be no possible inconvenience in examining General Cartwright, before the officer on his trial enters into the facts of his case as applying to the charges.

Lieutenant General Cartwright sworn.
Examined by Colonel Quintin.

Have the goodness to state your knowledge of Colonel Quintin, as an officer, and your opinion of his character as such?—My opinion of Colonel Quintin I have taken the liberty to put into writing, which, with the permission of the Court, I will read, and will then deliver the paper in.

Judge Advocate General. What you are about to read, is what you state upon oath, as your opinion at the

present moment?—Exactly so. Colonel Quintin served under my command in the 10th, or Prince of Wales's own Light Dragoons, (they are at present called the 10th Hussars;) during the whole time in which I did duty with that regiment as its Lieutenant Colonel, not meaning to include the period when I was major general; a period (the few first months included, when I was only major) of about nine years; in which period I of course had great means of becoming acquainted with the character, and of observing the professional conduct of Colonel Quintin; and I have no hesitation in declaring, that I invariably found Colonel Quintin to be an officer who laboured as indefatigably, as zealously, and if I may be allowed to say, as successfully, for the good of his regiment and of the service, as it was possible for an officer of his rank to do; and I accordingly should think I was now acting with great injustice to Colonel Quintin, were I not to say that if the 10th, or Prince of Wales's own Light Dragoons acquired any credit by its general discipline and good appearance, while I had the honour to be Lieutenant Colonel of it, that credit so acquired was in a great degree the result of the extraordinary exertions of Colonel Quintin. I have to add, that I have, subsequently to the period above spoken of, every reason to think that those exertions of Colonel Quintin continued unabated, as I at different times inspected the 10th Dragoons when I was employed as Major General upon the staff, and I was as firmly convinced upon those occasions, as I had been upon any former ones, that the regiment derived the greatest advantage from the unremitting zeal and from the abilities of Colonel Quintin. I farther wish to say, that my report on the state of discipline of the 10th, or Prince of Wales's own Dragoons, bearing date the 22d October, 1806, contains, I recollect, the following passage: "Lieutenant Colonel Leigh having been much in attendance upon his Royal Highness the Prince of Wales as his equerry, since the 10th Light Dragoons have been under the command of the Lieutenant General (that is myself), the command has in a considerable degree devolved upon Colonel Quintin, whose unremitting attention to the duties of that command has proved him to possess a perfect knowledge of every part of cavalry service, and to be in all respects a most deserving officer." That is the whole of my opinion. I have signed this as my opinion.

Cross-examined by Colonel Palmer.

You say you at different times inspected the 10th, or Prince of Wales's own Light Dragoons; state when, where, and how often?—Twice or three times I think; you will see by the paper it was in the years 1806 and 1807. I am not certain whether I inspected the regiment subsequently to that; no, I remember I did not.

Can you state any other instance?—The years 1806 and 1807 I can speak positively to.

The date you mention is the 22d of October, 1806. Can you name any other occasion on which you inspected the regiment, but that occasion?—Yes; not the date of it. I could by referring to the commander in chief's office.

Colonel Palmer. I do not dispute the fact; but I have no recollection of it myself.—I am perfectly satisfied that my opinion was that expressed; my opinion was the same at the different periods that I did inspect the regiment.

Do you consider yourself as enabled to give an opinion of Colonel Quintin's merits on service?—That is a question I really do not know how to answer; I never was but on home service with him.

Colonel Palmer. I think it a very different thing commanding at home, and therefore put the question.

Judge Advocate General. Of that the Court will judge. There is no possible objection to the question, whether he was ever on service with him.

President. I should conceive General Cartwright is not to be his own witness to state whether he thinks himself a proper judge of Colonel Quintin's merits; but the selection of General Cartwright shews the sense entertained of his competency to judge of his merits.

Colonel Palmer. Does the opinion you have expressed of Colonel Quintin's character mean to include his conduct on service?

President. I understand that as far as General Cartwright knows Colonel Quintin he has given him that character: he says, he has never served abroad with him.

Judge Advocate General. I take the course to be this. The opinion of General Cartwright, as to Colonel Quintin's general conduct and character as an officer is asked. Supposing General Cartwright had answered in only a few words,—"I think his character and conduct

extremely good;" I take it, the most usual course before every court, would be, that there would have been no cross-examination. General Cartwright, however, goes further, and states the circumstances and the means he had of making up his mind upon that general character; he tells you he forms this opinion from his communication with the regiment formerly, and since that period, and he points out the dates; it is very easy to ascertain, whether at any particular period, the regiment was on service, or at home; by referring to the dates given, it will be known that the regiment was certainly at home. If any of the facts, however, are incorrect, then those facts are open to cross-examination; but assuming the facts, whence he derives that opinion, it appears clearly that the regiment was at home at the time.

Col. Palmer. I beg leave to apologize to the Court if I have put any question that was improper; but I thought it material, after so very high a character, to ask whether it referred to Col. Quintin's merits on service; but I beg to withdraw the whole of the questions.

President. I will only say, that I never knew an evidence with respect to character, cross-examined.

Col. Palmer. Then I should wish those questions to be withdrawn.

President. If a witness is to undergo cross-examination, we could not receive this written character.

Judge Advocate General. I take it, the ground upon which the judgment of character is given, is, that it is upon facts and circumstances within the knowledge of the witness; and being founded upon facts and circumstances, it may be necessary to examine into those facts and circumstances.

Col. Palmer. It appears to me, that when Col. Quintin brings forward witnesses to his general character, to prove that he cannot have been guilty of charges made against him, it is proper to ask the witnesses as to the facts and circumstances upon which they speak.

President. It will be in the recollection of the Court, that every charge brought against Col. Quintin, is for facts and circumstances, subsequent to the character given to Col. Quintin, and under different circumstances.

Col. Palmer. I will with the permission of the Court, withdraw every question put to Gen. Cartwright.

Several letters were handed to Colonel Palmer.

Col. Palmer. With respect to this letter of Colonel Quintin's, I have no doubt it is an original letter, but I know nothing of it. With respect to this letter, which was the last letter spoken of in the defence, if Colonel Quintin wishes it, I cannot for a moment object to the admission of it: at the same time, I think it will be necessary to explain to the Court how Colonel Quintin came by that letter.

The following Letters were read.

August 9, 1814.

Sir,

We, the officers of the 10th Royal Hussars, have deemed it necessary to address His Royal Highness the Prince Regent, on the subject of the enclosed letter, and we request you (as senior field-officer of the regiment) will take a favourable opportunity of submitting it for the consideration of His Royal Highness. You will, we are confident, be able to give His Royal Highness any further information he may require. We also beg of you to add your signature to the letter, if your feelings on the subject are in unison with ours, as we conceive you to be equally interested with us all, in the character and reputation of the regiment.

We have the honour to be, Sir,

Your most obedient humble servants,

G. J. Robarts, Major and Lieut. Col.	Chas. Eversfield, Lieut.
J. R^{d}. Lewes Lloyd, Capt.	G. Wombwell, Lieut.
B. Harding, Capt.	C. Wyndham, Lieut.
S. H. Stuart, Capt.	H. Seymour, Lieut.
G. Fitz Clarence, Capt.	Henry Somerset, Lieut.
J. Smyth, Capt.	A. F. Berkeley, Lieut.
Edw. Page Turner, Capt.	Henry Fitzclarence, Lt.
Robert Giveen, Capt.	I. H. Powell, Lieut.
Arthur Hill, Capt.	I. Jackson, Lieut.
Edw. Fitzgerald, Capt.	I. A. Richardson, Lieut.
Worcester, Lieut.	I. C. Green, Lieut.

To Col. Palmer,
10th, (or Prince of Wales's own) regiment, Hussars.

August 9, 1814.

Sir,

It is with the most sincere regret, that we, the officers of your Royal Highness's regiment, feel called on, as a duty we owe to your Royal Highness, as our Colonel, and to ourselves, to endeavour to remove any impressions to our prejudice, which we fear the repeated animadversions of the Duke of Wellington, and the commanding officer of the cavalry, in regard to the conduct of the regiment, may leave in your Royal Highness's mind, with respect to our conduct in the execution of our respective duties, during the period of our services on the continent, if the circumstances should hereafter come to your Royal Highness's knowledge.

We can with confidence, assure your Royal Highness, that we have endeavoured by every exertion in our power to maintain the discipline and credit of a regiment so distinguished by your Royal Highness's favour and protection.

So peculiarly situated as we feel ourselves, we trust that your Royal Highness will be induced to view with your Royal Highness's usual kind consideration, the motive which makes us feel it our imperious duty to notice with the most poignant and heartfelt regret, reports most generally circulated to the prejudice of the military character of Col. Quintin, and which are so unhappily calculated to throw discredit on the regiment.

Deeply as we must regret being compelled to appeal to your Royal Highness on a subject so delicate, we hope and trust that our critical situation will acquit us of any sinister motive.

The fear that a knowledge of these circumstances might eventually reach your Royal Highness from other quarters, (which would, consequently, place us in a situation to merit reprehension,) has obliged us to lay them before your Royal Highness. Trusting our intention will be seen in the proper light, and impelled by these feelings, which originate solely in the wish to maintain the distinguished character and credit of your Royal Highness's regiment;

We remain, with every sentiment of attachment and respect,

Your Royal Highness's
Most obedient, and most devoted
humble servants,

WORCESTER, Lieut.
Chas. EVERSFIELD, Lieut.
H. SOMERSET, Lieut.
G. WOMBWELL, Lieut.
C. WYNDHAM, Lieut.
Horace SEYMOUR, Lieut.
Henry FITZ CLARENCE, Lieu.t.
A. F. BERKELEY, Lieut.
I. H. POWELL, Lieut.
I. JACKSON, Lieut.
I. A. RICHARDSON, Lieut.
I. C. GREEN, Lieut.
R. B. PALLISER, Cornet.
G. J. ROBARTS, Major and Lieut. Col.
J. R. LEWES LLOYD, Capt.
B^{n}. HARDING, Capt.
S. H. STUART, CAPT.
G. FITZ CLARENCE, Capt.
J. SMITH, Capt.
EDW^{d}. PAGE TURNER, Capt.
Robert GIVEEN, Capt.
C. SYNGE, Capt.
Arthur HILL, Capt.
Edward Fox FITZGERALD, Capt.

Judge Advocate Gen. The next is a letter from Colonel Robarts: how do you prove the hand-writing?

Col. Palmer. I believe that to be Colonel Robarts's hand-writing.

The following Letter was read.

Brighton Barracks,
August 26th.

Sir,

In consequence of your Royal Highness's commands, through Col. Palmer to the officers, upon the subject of the unhappy feeling that exists in the regiment, I beg leave most respectfully to address your Royal Highness in my own name, and that of the officers.

With respect to the bringing forward charges against the commanding officer, we can assure your Royal Highness, that we have never had an intention of the kind, nor can we at all reconcile ourselves to the idea of bringing forward, before a general court-martial, an individual who has hitherto been so distinguished by your Royal Highness's favour and protection; conceiving, that nothing could justify to the world and ourselves, the indelicacy of such an act. Our feelings, independent of such consideration, are adverse to a measure of the kind; being actuated by no personal motives, but solely by an anxiety to preserve the dis-

tinguished character of your Royal Highness's regiment, which we conceive to have suffered most materially under the command of Col. Quintin, in its late service on the continent. In making this declaration, it is our duty to lay the circumstances before your Royal Highness, who will best judge how far we are justified in the feelings we possess.

We submit, in the first place, to your Royal Highness, an extract from the Adjutant General's letter to Lord Edward Somerset, commanding the Hussar brigade, (which we most respectfully beg leave to inclose) relative to your Royal Highness's regiment, and we appeal to the candour of your Royal Highness, how far any set of officers, anxious for the character and credit of their corps, and without the peculiar feelings by which we are actuated, can respect the individual who has involved them in such disgrace. We likewise beg leave most respectfully to refer your Royal Highness to the inclosed general orders from Sir Stapleton Cotton, then commanding the cavalry, in which the commanding officer is again alluded to, and the whole regiment threatened with the disgrace and punishment attending his misconduct. We are further under the necessity of stating to your Royal Highness, which we do with feelings of sincere regret, that reports out of the regiment, and the general opinion of the officers are so injurious to the personal honour of Col. Quintin, as to his conduct before the enemy, that we cannot, consistent with our feelings, refrain from stating the fact to your Royal Highness, leaving your Royal Highness to adopt such measures as your Royal Highness may conceive such a declaration, on our part, calls for; and should your Royal Highness demand why we have so long concealed these and other circumstances from your knowledge, we trust your Royal Highness will find it in those sentiments of respect and delicacy to your Royal Highness's situation, which led us to bear with patience, the misfortune of ours.

The mode in which these facts are to be brought forward, we most dutifully beg leave to request your Royal Highness to determine: we have stated our objection to a public enquiry, and trust your Royal Highness will give credit to our motives; at the same time, if your Royal Highness should judge it expedient to deny this indulgence to our wishes, we are ready

to obey whatever commands your Royal Highness may think fit to give us.

"Whatever may be the result of any proceeding your Royal Highness may think proper to adopt, we beg to assure your Royal Highness that we shall ever remember with feelings of pride and gratitude what we owe to your Royal Highness as our Colonel; and we can declare with the greatest truth, that independent of the distinguished and exclusive honour we have hitherto enjoyed of serving immediately under your Royal Highness, and of which we conceive that we but shew our sense by our zeal in the discharge of our duties, and our anxiety for the character of your Royal Highness's regiment: we have ever experienced from from your Royal Highness that most gracious condescension and kindness, and that unremitting attention to all our interests and wishes, which would make us feel the most ungrateful of human beings if we could ever forget them.

"I have the honour to remain, with every sentiment of duty and attachment,

Your Royal Highness's
most devoted humble servant,
"G. ROBARTS, Lt.-Col. and Major, 10th."

Addressed to His Royal Highness the Prince Regent.

The following inclosures in the above letter were read:

"Extract from the Adjutant General's letter to Lord Edward Somerset, commanding the Hussar brigade:

"I am commanded by my Lord Wellington, to take this occasion of mentioning, that the complaints against the 10th Hussars are so general, and so extremely discreditable to the regiment, and prejudicial to the interests of the army, it is requisite you should immediately adopt measures to re-establish that discipline which is necessary to good order, but which has been allowed to relax in an unpardonable degree under the command of Lieutenant Colonel Quintin.

"Your Lordship will be so good as to communicate to the Lieutenant-Colonel the Field Marshal's displeasure at having to notice irregularities it was in his power to have prevented; and that a recurrence of such breach of regulation and good order, will convince his Excellency that the Lieutenant Colonel is unequal to the command of a regiment of the first pretensions."

" *General Cavalry Orders.*

26th February, 1814.

" Lieutenant General Sir Stapleton Cotton regrets having occasion to say, that many reports have lately been made of extreme misconduct in cantonments by some of the cavalry. The civility shewn by the inhabitants of the country ought to meet with return worthy of it. A contrary conduct, in frequent instances, cannot but be known to the officers whose duty it is to exact from those under their orders the observance of good discipline.

" The officers here alluded to cannot, however, realize what is expected of them unless they are supported by officers commanding regiments: lenity to those guilty of small offences, tends frequently to encouraging the commission of offences of greater magnitude.

" When the captain of a troop has occasion to report the misconduct of individuals to the officer commanding the regiment, the latter must support him, otherwise the troop must of necessity become disorderly; the captain will lose his authority, and his zeal for the good of the service is not unlikely to be diminished in the same proportion.

" The Lieutenant General hopes there will be no occasion to mention in orders the name of any regiment for misconduct in cantonments, but should it be repeated, a necessity for so doing will be called for, and the regiment so mentioned will be ordered (every officer and man) into bivouac, and not allowed on any account to enter cantonments, to disgrace the cavalry service by theft and other depredations.

"The Lieutenant General having witnessed much irregularity in the march of the baggage of the Hussar brigade, calls to a reference to the cavalry orders of 5th Sept. 1809, 1st Sept. 1810, and 14th March, 1812. An officer in a command of a baggage-guard must be in the rear of his command, to ascertain that the baggage animals keep well up; the rate of march must be regulated accordingly.

" This order must be read twice at the head of each regiment, and twice a week at the head of each troop during the next month.

(Signed) " J. ELLEY, A. A. G."

The following Letter was read.

Sir, *August 21st*, 1814.

It is impossible to offer the expression of my gratitude for the humane consideration exercised by your Royal Highness towards me, under the present unlooked for circumstances of the regiment; but in the expression of that feeling, I trust to your Royal Highness's generosity, not to believe me capable of shrinking from the most public investigation, which allegations, such as are contained in the letter written by Lieut. Col. Robarts, and in the name of the regiment, so imperatively call for: I, therefore, lay myself at your Royal Highness's feet, with my humble prayer, that it may be your Royal Highness's decision that a general court-martial do judge between the regiment and me.

I have the honour to remain, your Royal Highness's most obedient and most faithful humble servant,

G. QUINTIN.

Addressed to His Royal Highness
The Prince Regent.

Judge Advocate General. There is a question to be asked of Colonel Palmer.

Colonel Palmer sworn.

Examined by Colonel Quintin.

You are requested to state where the different officers who signed the letter of the 9th August were at the several periods alluded to in the charges?—If the names are given to me I will endeavour to state. As to Major Robarts, Colonel Quintin has already explained he returned to this country, about the 9th or 10th of August; Captain Lloyd was with the regiment the whole of the time; Captain Harding with the regiment; Captain Stuart with the regiment; Captain Fitzclarence was only part of the time, for he was on the staff of the Adjutant General for a considerable time; he was all the time abroad, but only part of the time with the regiment.

Is it meant that Major Robarts returned for good at the time specified, or returned again to the regiment?—No; he did not return again to the regiment. Captain Smyth came out with the new squadron in February; Captain Turner came out with Captain Smyth in the same squadron; Captain Giveen was at home; Captain Lord

Arthur Hill went abroad with the regiment, and came home on his promotion: I forget exactly the date, the orderly books will state that; Captain Fitzgerald, I think, landed with the regiment. I came away myself immediately on the conclusion of the war; he was there up to the period of the charge; and I think the two Fitzclarences came home with the regiment; but that was after I left the regiment. The Marquis of Worcester was with the regiment soon after we came to Lisbon; but he was most part of the time with Lord Wellington, as his aid-de-camp. I know he was with the regiment at Olitè, under Colonel Robarts; but I do not think he was ever with the regiment under the command of Colonel Quintin. Mr. Wombwell went out with the regiment, but he returned very ill with the jaundice; he went home from Tafalla, I think about September. Charles Wyndham was there the whole time with the regiment; Lieutenant Seymour also; Lieutenant Somerset also; but when Lord Edward took the command of the brigade, he was made aid-de-camp to his uncle, Lord Edward. Lieutenant Berkeley was out with the regiment the whole time. Lieutenant Fitzclarence was gazetted to the regiment just about the time of their leaving Lisbon; he was gazetted from the 15th, and continued abroad with the regiment the whole time. I forget exactly when Mr. Powell came out, but some time previous to the last squadron, and he was obliged to return very soon, on account of his extreme ill health. Mr. Jackson came out with the new squadron, but I left it immediately after the conclusion of the war, and was but a short time with him. Lieutenant Richardson came out with the 4th squadron. Lieutenant Green did not come out.

How long had Lieutenant Green and Cornet Palliser been in the regiment?—I really cannot recollect. Colonel Quintin has the orderly books, and I have not seen any one of them for some time.

Colonel Quintin. They are all of them here.

Judge Advocate General. It is impossible for Colonel Palmer to ascertain the precise periods of their coming into the regiment; but the orderly books will ascertain it of course satisfactorily.

President. I do not know the object of this inquiry; but if it is of any consequence, the orderly books should be the medium of proof, as being more accurate than the recollection of officers without reference to them.

Colonel Palmer. I cannot exactly recollect the whole

of the defence; as it is extremely long, and it will be necessary for me to look it over. In the mean time there are several parts of it which advert to my conduct, and I should be extremely obliged to Colonel Quintin if he would examine me here upon oath as to any points to which he has spoken.

Serjeant Charles Buck sworn.

Examined by Colonel Quintin.

Did you bring the brigade order relating to foraging from Brigade Major Jones on the 9th of January last?—Yes, I did.

What sort of a night was it, and at what time did you reach the head-quarters of the regiment at Cambo?—It was a very dark wet night; I did not reach the head-quarters at Cambo till a little after eight o'clock in the evening.

Serjeant Major Samuel Wells called again.

Examined by Colonel Quintin.

Did you act as adjutant at the time of the regiment being at Cambo in January last?—I did.

Were any orders given to you by Colonel Quintin on the receipt of the brigade order on the 9th of January last to forage in the valley of Macoy on the following morning?—Yes, there were.

What sort of an evening was it?—It was a very dark evening and wet.

At what time were those orders given you?—It was some time after dark; I should think after eight o'clock.

What did you do in consequence of those orders?—I gave the orders out for the regiment to assemble the next morning near the cantonments of the squadron commanded by Colonel Palmer.

Could any officers or men have found their way to the quarters of General Morillo on the evening of the 9th after the brigade order arrived?—They might have found their way with great difficulty; but I do not think it would have been of any service to have sent that evening: the roads were very bad, and it was very dark.

Did you send any orders to any officer to go to General Morillo early the next morning?—To the best of my recollection a subaltern officer; I do not remember whether Lieutenant Fitzclarence, or Fitzgerald: but one of those officers I ordered to go at day-break to General Morillo to request a hundred men to cover the foragers.

What did you do when you got to the valley in the morning?—Previous to our entering the valley we halted on the road, and the sentences of two or three Court-martials on men were put into execution; we then proceeded to the valley of Macoy, and not meeting with a quarter-master, who had been detached to look for forage, at the place appointed, we proceeded through the Spanish cantonments occupied by General Morillo's division, where we halted a few minutes, and some officer of the regiment, I cannot recollect who, was sent back to endeavour to find out General Morillo; I rather think it was Captain Lloyd.

Did any party turn out to cover you?—When we came up to the village of Macoy, a party commanded by an officer, it might be forty or fifty, turned out, and moved to the front to cover us.

Which way did the covering party pass you?—The covering party came out of the village, and passed us on both sides of the road. The Colonel expressed his surprize that there were no more; and I called a man to the front who could speak the language, to say that the Colonel requested a hundred men, and that there was not near the number; and the answer was given that there were picquets in the front that would assist in protecting the foraging party.

Cross-examined by Colonel Palmer.

Can you state positively the officer who was sent to General Morillo?—No, I cannot; the quarter-master can of course.

Where did the regiment direct its course in the first instance after it left Cambo?—After it left Cambo, the first direction was to the cantonments of the squadron commanded by Colonel Palmer; after the regiment had assembled together, it took its course to the right, to the valley of Macoy.

Was it in the direction where it foraged?—Not exactly where they foraged that day.

State which way it did go.—I have before stated to the cantonments occupied by General Morillo. I recollect I expressed to you that I thought I saw a French picquet, and handed to you my glass to see; you could not see through it, and used your own glass; that must be in the French lines, it was at a considerable distance from us.

Judge Advocate General. Was it in consequence of that discovery you changed your course, or was it when you changed your course that you made the discovery?—It was not in consequence of that that we changed our direction to my knowledge; but we proceeded through the cantonments occupied by the Spaniards.

Colonel Palmer. Do you mean to say that Colonel Quintin did not change the direction in consequence of your reporting to him that those were French picquets?—I cannot speak to that: we proceeded through the Spanish cantonments, in consequence of not finding the party we expected.

Can you state where it was that Colonel Quintin expected to find the quarter-master you mentioned to have been detached by him?—Close to the place where we halted, where there was a guard of the Spaniards; the place pointed out to him.

Who was the quarter-master detached?—Quarter-master Eyres.

Was the place in the valley of Macoy?—It was on the right of the valley of Macoy.

Do you recollect Quarter-master Eyres reporting to Colonel Quintin that he had found forage sufficient for the whole regiment at the place to which he was sent?—I do not.

How long did the regiment lie at Tafalla?—About a month, or it might be two months; I cannot be certain when the head-quarters were removed; the head-quarters of the regiment I should think about a month or five weeks, I cannot be certain to a week, but the orderly books will shew it exactly.

Were not there troops there during the months of August, September, and October?—Some part of the regiment, I think, was there during that period.

Were not Colonel Quintin's quarters there during the whole of that time?—No; I have no recollection that they were, I mean not the whole of the time; they were there the beginning of the time, but not during the whole of it.

Where did he remove his quarters to?—I cannot say whether to Garronone or Baroswain; they were adjoining villages, and I am not certain which.

Do you mean that Colonel Quintin removed the head-quarters of the regiment to the places you mention?—Yes.

Can you state how many punishments took place whilst the regiment lay there?—I cannot.

President. Were there many or few?—I cannot say, upon my life.

Not as to the exact number, but you can give the Court some idea?—I cannot indeed.

Col. Palmer. I should be glad to ascertain that fact. I should think Serjeant Wells can recollect that; if not perhaps Colonel Quintin can state.

Judge Advocate General. I should think the orderly books would be the best evidence; you can have access to them at any time. Previous to the commencement of this Court, I received some books, among which I understood, were the orderly books, which I have desired may be kept unopened till they are wanted here.

Col. Palmer. Then I can notice that in my reply.

Judge Advocate General. Certainly.

Col. Palmer. Then it is not of any consequence to examine this witness further upon that point. Did Colonel Quintin attend the execution of the punishments?—Some, and some he did not. Some Colonel Palmer attended.

Can you state a single instance in which Colonel Quintin attended the punishments which were ordered at Tafalla?—I cannot call them to my recollection.

President. In punishing a man under sentence of court-martial, was it the practice for the regiment to be under arms, and all the officers to be attending at the time of the execution of the sentence, or only the adjutant and particular officers?—For the whole of the regiment to be under arms, and all the officers of every description to be present.

Was it customary in punishments, when the sentence of the Court was read, for the articles of war to be read?—They used to be read; but latterly they have not; they were not referred to; but it was only said "contrary to the articles of war." The article that he was sentenced under was always read when it was referred to.

Col. Palmer. Do you remember Colonel Palmer complaining to Colonel Quintin that he could not make the farriers and trumpeters of the regiment do their duty in punishing the men?—I recollect Colonel Palmer complaining of them.

To Colonel Quintin?—I was not present when Colonel Palmer ever complained to Colonel Quintin.

Do you mean to state that you were not present upon an occasion when I stated that circumstance to Colonel Quintin?—I was not present when Colonel Palmer stated that; but Colonel Quintin told me that Colonel Palmer had stated it; and Colonel Quintin ordered that a black trumpeter, who had been complained of also by Colonel Palmer, should be kept at drill, where he was to be kept till he was released by Colonel Palmer. Colonel Quintin spoke very severely to him himself, and ordered him to be drilled.

Did not punishments occur much more frequently after quitting Tafalla and proceeding to join the army than before?—After we passed the Pyrenees the punishments were much more frequent; on some occasions previous to going through the lower pass there were punishments.

President. For what offences?—Intoxication and other offences.

Colonel Palmer. What observation did Colonel Quintin make to you upon his arrival at the regiment, upon the system which had been pursued previous to his joining?—After returning from Roncesvalles the Colonel joined us at Olitè; he called for the court-martial book, and expressed his surprize at the wonderful punishments there had been in the regiment, and said he would endeavour to adopt another method.

Did you make any answer upon the occasion; and what?—I did; I told the Colonel I did not see any punishments but what were actually necessary.

Were not the men extremely drunken in their habit at Tafalla?—They were at Tafalla and Olitè previous to the Colonel's rejoining the regiment there as well as afterwards.

What was the state of discipline of the regiment before Colonel Quintin joined it, after landing at Lisbon?—The discipline of the regiment at first after our landing at Lisbon was very bad: they drank to excess; the Lieutenant Colonel assembled the regiment, and told the men that if they got drunk, he must punish them; and previous to our leaving Lisbon, the regiment was in as good order as any regiment in the service.

Did you observe any alteration after Colonel Quintin's joining?—When we returned to Tafalla the men drank to great excess; and the mode of ironing the men, that is of putting the men in irons, which Colonel Quintin adopted, instead of court-martial, I do not think had the desired effect.

Do you remember at Tafalla finding two men who had been punished for breaking open a wine-cellar, and sent to the hospital, again drunk in the streets within an hour?—I remember going into the front of the hospital, and finding two men who had been punished for breaking open a wine-cellar, and the people giving them wine, and I took them back to the hospital myself: it might be three quarters of an hour or an hour; it was within the hour I know.

Do you not conceive the men became so confirmed in their habits of drinking at Tafalla, in consequence of the relaxation of discipline, that the punishments which took place afterwards came too late to cure the evil?

Judge Advocate General. He has not stated any thing as to the relaxation of discipline, but that he conceived Colonel Quintin's new mode of ironing the men did not succeed.

Col. Palmer. Then I will put it in this way. Do you not conceive the men became so confirmed in their habits of drinking at Tafalla, that the punishments which took place afterwards arrived too late to cure the evil?—I cannot answer that: there were a great number of punishments afterwards.

Were not the punishments after quitting Tafalla much more frequent than before?—No; I cannot say that: for I know the number of punishments that preceded that, and I know the number under Colonel Quintin's command.

I am not speaking of the regiment under the command of Major Robarts; but were not they afterwards under Colonel Quintin much more frequent than they were before under Colonel Quintin?—Certainly, after leaving Tafalla they were much more frequent than before.

You have stated the circumstance of some men being punished on the 10th of January, previous to their marching to forage; did not the punishments of the men on the march, and during our active operations, occasion great delay and consequent inconvenience to the regiment?—Undoubtedly it would.

Do you remember the punishment of a man of the name of Rowe?—Perfectly well.

State when it was.—It might be the latter end of April, or the beginning of May.

Did the man say any thing on being taken down?—On the man being taken down he hallooed, "Thank you, Colonel Quintin; damn you; you are a gentleman," somebody hushed him to hold his tongue; he said, "Damn you, I will not hold my tongue; he is a gentleman; Colonel Quintin is a gentleman; the regiment is a good regiment yet, but I am in a bad troop."

Did he receive the whole of his punishment?—I cannot answer to that; but I believe he did not.

Lieutenant General Champagnè. What troop was he in?—Captain Smyth's troop.

Re-examined by Colonel Quintin.

What other methods besides corporal punishment did Colonel Quintin pursue in any cases of men committing offences?—Putting men in irons, and making them walk with their kits at their acks.

How many instances do you know of the regiment being delayed by punishments?—I do not remember more than one instance. When we got our orders we used to turn out half an hour, or three quarters of an hour before the time for that purpose.

What was that one instance?—I think that was the 26th of February. The regiment was turned out for the purpose of mustering, and one of the aid-de-camps came and expressed his surprise at the regiment being turned out; a punishment took place, and Colonel Quintin represented to the men that if any of them were guilty of getting drunk again, he would speak to the General, and the regiment should be put in bivouac. During this there was some little delay.

Col. Palmer. You have stated that you recollect the regiment being detained only once for the punishment of the men?—Not to be behind the brigade, I mean.

Do not you remember many instances of the regiment being turned out and the men being flogged? Yes, I remember many instances; but then they were turned out half an hour or three quarters of an hour previous to the time of the regiment being assembled. The leave of the

General, Lord Edward Somerset, has been asked more than once to my knowledge for it.

Colonel Quintin. When was it that Colonel Quintin said he would apply that the regiment should be put in bivouac if they continued to get drunk?—On the 26th of February.

Are you positive as to the day?—I think I am positive to the day; the next day was the battle of Orthes.

When was this stated with reference to the order that came out?—The brigade order I think we received either that night or the next morning.

Was this stated by Colonel Quintin previous to or after the order?—Previous to the order.

President. You state that in general you were not delayed by punishments, but that the regiment were turned out so much the sooner when punishments were to take place?—Yes; I do not say that the brigade has not passed us, and that we have not regained our place by trotting up a little.

Colonel Quintin. Had the men plenty of money at the time you were at Tafalla?—Yes, they had all the time we were at Tafalla; and if any of them had not, the artillery, who had plenty of money, used to treat the men.

Could they obtain abundance of wine, and at a very cheap rate?—They could procure abundance of wine, and very cheap, at a great number of houses; the men need not purchase the wine, for the people would give it them.

Col. Palmer. I am very sorry to be under the necessity; but if this goes on, I must cross-examine this man again; and if it is attempted to be proved that the men got drunk only when they had money, I must ask to that point.

Judge Advocate General. Colonel Palmer having stated that, I will take the opportunity of stating that which I have observed during the course of the prosecution, and which I think will be an extremely inconvenient course if it is pursued. The mode in proceedings of this nature is, for the party calling a witness first to examine him in chief, then for the other party to cross-examine him. If new matter is introduced, there is then a re-examination on the part of the person calling him, and after all if the Court see any reason to ask any question to make up their mind, then

they do it; but it must be evident to all parties, that unless that course is pursued, if a sort of fluctuating mode is pursued, of one party putting questions, and then another, continually backwards and forwards, it must be very inconvenient, for it confuses the case; it is inconvenient to the parties themselves, and certainly it is not consistent with the ordinary course of proceeding. I only throw it out generally. The Court will observe that the examination in chief of this witness was a very short one; that the cross-examination has raked up new matter, and gone to the state of discipline in the regiment, and has gone over a very wide range, which made it perfectly consistent with the rule, that on re-examination the witness should be asked as to new points; but if that is to suggest additional questions to the person originally cross-examining, I see no end to it.

Col. Palmer. I hope I have always acceded to that which was recommended by the Court; and I should be extremely obliged to the Court to erase any matter that they think I have not regularly introduced.

Judge Advocate General. I should be very sorry if in mentioning this I was thought to throw any reflection upon that which Colonel Palmer had done; it was very natural for him to do what he did: the same thing was done to a degree in going through the case for the prosecution. It was evident the inconvenience there was diminished by the cross-examination being peculiarly short; for there hardly ever was a shorter cross-examination than there has been in the course of this prosecution; the consequence of which was that the inconvenience was not materially felt. I have in some measure to reflect upon myself for not having mentioned it sooner; but I thought I was taking a time which would be least inconvenient to both sides, and without any intention whatever to propose erasing any question which has been asked. I therefore hope my saying this will not impress Colonel Palmer with any idea that I impute blame to him for what has passed; it was most probably owing to my neglect of duty if any thing irregular has passed.

Col. Palmer. I would not press the matter for a moment, but that the court must see that the Serjeant Major acting as adjutant is a most material evidence, and that when reflections have been cast upon the officers his evidence may be most material; and I should be particularly obliged to General Vyse and all the members of the

Court, if they will expunge any question in which they conceive there is any irregularity.

Judge Advocate General. I could not put my hand upon any questions which are of that character; but I only interposed because of your stating that if this were pursued you must ask further questions.

Colonel Quintin. Were there a greater number of wine-houses at Tafalla, and wine in a greater plenty there than at other places?—After we left Lisbon, there was no place during our march up the country where wine was so plenty as at Tafalla and Olitè.

Judge Advocate General. Having stated this to the Court, I am aware that in the course of an examination, what I have stated may produce inconvenience; if, therefore it shall be the pleasure of the Court to adopt the rule for the future, any questions which Colonel Palmer may wish to ask this witness, may be asked by the Court, in order that he may not be taken by surprize, in respect of any questions he would otherwise have pressed upon their consideration; and therefore if it is not to be drawn into a precedent, probably the court will see no objection to adopting such questions for themselves, and then they will appear in a regular shape upon the proceedings.

Col. Palmer. I have no more questions to put to this witness.

Colonel Quintin. I shall have occasion to call him again.

Col. Palmer. If I had thought that Serjeant Major Wells would have been brought forward again on any of the other charges, I would not have put a single question to him now.

President. You have not put a single question which we have the least objection to; but it is of importance to keep up a chain of questions from each party in their order.

Col. Palmer. Certainly; it is most convenient.

Quarter Master Benjamin Eyres sworn.

Examined by Colonel Quintin.

Were you sent at the break of day on the 10th of January to forage in the valley of Macoy?—Yes, I was.

Did you find any forage?—Yes, I did.

What was the state of the roads?—The state of the

roads was very narrow and close, very confined by the water side.

Judge Advocate General. What was their state; that is rather their construction and situation?—The roads were hilly and narrow up a hill, and close to the water side; there was only a narrow road, with a very high mountain on the left, and a river on the right; as I was going after crossing the valley of Macoy, I went over the mountain, and got close to the water side, and proceeded to search for forage there, and found some in two different houses.

Col. Quintin. Did you find forage at a considerable, or what distance?—From the place I was sent from (Cambo) I look upon it two or three leagues; I cannot state particularly to a mile.

Could the regiment have proceeded so far for it on that day with convenience?—I rather think not; I was to have met the regiment; but I could not meet them time enough; and after I had overtaken the regiment, I found a party of the troop I belonged to had proceeded to look for forage, and as I went on to Colonel Quintin to make my report, which I could not do for some time, the firing began on those men that had gone to forage.

Cross-examined by Colonel Palmer.

Did not the regiment come very near to the spot where you found the forage?—I think within about two miles, or thereabouts.

What time did the regiment arrive near the spot where you found the forage?—I cannot exactly say: the regiment had passed the place where I was to have met them. I could not get back time enough; I went over the hill and down to the river between two hills close to a mill. I did not know where the regiment was till I saw the track of their horses. I dare say by the time I got up to the regiment, it was better than two leagues from where the forage was.

When and where did you overtake the regiment?—After the last squadron had divided, Captain Gordon's and Captain Fitzclarence's were gone, I believe you and Captain Harding were the two first officers we saw in the rear of the regiment; your squadron arrived before Captain Harding's troop. It was some considerable distance in the rear of Gen. Morillo's house, where he lived, I think it was close to a church.

What did you report to Col. Quintin when you found him?—That I had found forage close to the water-side.

To what amount?—There was enough in one house to furnish the regiment for two days, and in another house up the hill, there was enough to furnish the regiment for a day.

Do you know Colonel Quintin's reason for not coming to the spot where you found the forage?—No, I do not; I think Col. Quintin asked me how far back it was, and whether there would be time enough to get the regiment back, and to get to their cantonments; and I believe I told him there was not time enough to get the regiment back (after going there) at the time he wished.

If Colonel Quintin had proceeded at once to the spot where you found the forage, would he not have procured the forage and returned to the quarters much sooner than in consequence of his taking another direction?—I think not, because the road was a greater distance.

What time were you sent off in the morning?—By day-break; I was ordered to go before day-break.

At what hour?—Between five and six. I was ordered to go as early as possible, so as to proceed there, and return to meet the regiment in the valley of Macoy.

At what time did you get to the place where you found the forage?—I cannot say, for I stopped and searched several houses. I dare say it might be ten o'clock, or between nine and ten, before I got there. I dismounted my horse and went in, whenever I got to a house where I thought there was any likely to be.

Do you think there was any danger of being interrupted by the enemy?—No, I do not think there was; there were Spaniards in all the houses, and further down than that.

Did you apply for any infantry to protect you?—I received no order myself to apply for any.

There was no infantry there to protect the regiment in case it arrived?—The infantry were applied for: I heard the order myself, the night before, from Serjeant Major Wells.

Re-examined by Colonel Quintin.

At what hour did the regiment get back to quarters on that day?—I cannot recollect indeed exactly; I think by three or four o'clock; but I do not remember exactly.

President. Are you quarter-master now in the 10th?—No; I have left the regiment.

Colonel Quintin. That is the end of my evidence on the first charge.

Second Charge.

Serjeant Major John Sermon sworn.

Examined by Colonel Quintin.

Were you with the regiment on the 28th of February; and with what division?—I was attached to the skirmishers.

State what you saw of Colonel Quintin, or heard him say, while you were in pursuit of the enemy on that day?—When I was in the enemy's lines that day, I heard Colonel Quintin say, "Go on, go on;" that was all I heard.

Are you sure that you could distinguish his voice?—Yes, I am.

Where was he at the time?—In the rear of me.

How far?—I cannot possibly say; I did not look behind me.

About what distance?—It might be twenty or forty yards.

Were you actually engaged with the enemy at the time you mention?—I was.

Serjeant Major Wells called in again.

Examined by Colonel Quintin.

Were you with the regiment on the 28th of February; and with what division?—I was with the regiment: I was at the head of the regiment a considerable part of the day with Colonel Quintin; and was occasionally sent away to different officers with messages. I was sent, by the direction of the General, to order a division out to the right. Whilst I was performing this service, finding the other at too great distance, I galloped, and brought them up; and told Captain de Grammont, that the other division had charged, and I thought their distance too great. When we came up with the other squadron, they were halted. I passed Captain Harding, who was wounded, and several men. At this time two guns came up, which Colonel Gardiner said were in great danger, and ordered me to endeavour to find out who ordered them up, which I did, and found it was by order of Captain Fitzclarence.

The second squadron were ordered to front; the leading division opened out, and let them pass; and I went to the head of it with Colonel Quintin, when we received a volley from the enemy's infantry on a rising hill, and the division was put about; we went a few yards to the rear; but I received a contusion on the knee by the first volley. I cannot exactly say by whom they were put about, or by whom they were fronted. I remember Colonel Quintin was on the left of the road when they were fronted. After the divisions were formed again, Colonel Quintin asked me, whether any men of the division were hurt: one man, and one horse, or one man and two horses, were. We received an order then, to remain till the infantry came up: the Brunswick Oels, I believe, were the first that came to the front.

Where was Colonel Quintin when he asked you that question?—In front of the leading division, about one third on the left of the road towards the left of the front.

Did you hear Colonel Quintin say any thing to the men as they were passing him, on that day?—I never saw any of the men pass him but the skirmishers.

Judge Advocate General. Has not this witness been speaking all along to what Colonel Palmer called the second part of his charge.

Lieutenant General Sir Samuel Auchmuty. He has gone through the whole of the day, as I take him.

Colonel Palmer. When the guns came up, was after the second charge. I will put one question, which may save putting it by and by. Do you mean to say, that you heard Captain Fitzclarence give the orders for those guns?—Captain Fitzclarence said he did not know the serjeant who had been sent for them; but when I brought the serjeant up, he acknowledged it; and told me to tell the General, that he ordered them up, and that he thought it necessary.

Colonel Quintin. Did you hear Lord Edward Somerset say any thing that day, as to the distance the supporting division should keep?—I think, a hundred yards: they were at a closer distance at first; but the distance was altered two or three times that day.

Did you hear Lord Edward Somerset say that the supporting division was too close?—At one time I did.

At what time was that?—I cannot recollect whether it was before or after the charge; but I remember his

ordering them to slacken their pace, in consequence of the balls from the skirmishers falling into the main body.

State what you know of the state of the horses on that day; whether they were distressed or not.—I cannot tell as to those that were in the charge: some of the horses that were skirmishing that day were much distressed, for they had been out skirmishing a considerable time; and the men were obliged to use their swords over their horses; but I cannot speak to those in the road. The other part of them, except those, were in a tolerable condition, fit to go through a day's work, or a regular march.

What do you mean by the men using their swords?—I wanted to rally them against some of the enemy on a hill, and they could not come on with my horse, and they were obliged to use their swords in striking their horses: they said their horses were tired; that they had been out skirmishing a good while.

Were the horses in as good order at Orthes as they were at Moralles?—Oh no; they were not by any means; the horses had been living on corn at that time.

What forage had they before the battle of Moralles?—Sometimes green forage, and at all times corn. I do not know that we were without corn during our being in that country. Occasionally there has been rye used, and sometimes barley.

What sort of service had the horses gone through during the time they were at Roncesvalles, until they got to Tafalla; and what sort of forage had they?—During the time we were at Roncesvalles, we had six pounds of corn for the horses, and that was all: the horses had green oats: we had two leagues, or two leagues and a half, to go for it wherever we could find it; and afterwards they had to go upon picquet.

What sort of weather was it?—Very bad during the time we were there: a good deal of wet: there were one or two fine days.

After they quitted Roncesvalles, what was the forage, and what the services the horses had to go through?—The first day we left, we had a little wet: we had no forage. I believe a part of them got some green oats upon a hill. The next day, I believe, we got some wheat dried in the air.

Cross-examined by Col. Palmer.

The Brunswick Oels were infantry?—I believe they were Brunswick Oels; but they were infantry that came up: they went on each side of the road, and sat down on the banks. I am not certain whether they were the Brunswick Oels, or Spanish infantry.

Major General Rebow. Did Colonel Quintin remain at the head of the column, during the two charges, till the infantry arrived?—I am not certain whether Colonel Quintin remained at the head till the arrival, or whether he went to the General: I went through the wood, and pointed out to the General where the enemy were in position.

Major General the Hon. G. De Grey. After the orders given to Colonel Quintin?—Yes; and I sent out a party to reconnoitre, and we had a horse killed.

President. When you stated to Captain de Grammont that the supporting squadron were at too great a distance, did you do so by an order from Colonel Quintin, or from your own judgment?—I could not do it from orders from Colonel Quintin; for during the time I was sent through the wood, the charge took place: I heard the horses go at a quick rate; and what made me suspect the charge was, that I saw a staff-officer on the hill, waving his hat for the men to come on, I supposed; and I went to Captain de Grammont.

You went with that order, because you conceived they were at too great a distance, and not by order of Colonel Quintin?—Yes, because I thought they were too far off?

Lieut. Gen. The Right Hon. The Earl of Uxbridge sworn.

Examined by Colonel Quintin.

If you saw a regiment pressing the enemy with skirmishers, and charging in support of the skirmishers in column of division, about twelve in front, upon a road, and you wanted to stop the pursuit, or prevent the regiment going on, from seeing infantry in front, or any other cause, would you expect, in sending orders, to find the Colonel of the regiment charging with the skirmishers, or charging at the head of the leading division of the regiment; or should you expect to find him in flank of the leading squadron, urging forward his men to support the charge?—I should be surprised to find him leading the skirmishers, or leading the division in support of the skirmishers; I should expect to find

him at the head of the body of the regiment towards the head of the leading column.

Have you had opportunities of forming any judgment of Colonel Quintin as an officer?—Very frequent.

Have you seen Colonel Quintin in service?—Yes.

And in presence of the enemy?—Frequently.

You are requested to state to the Court your opinion of him as an officer?—I have no hesitation in stating to the Court that I have always entertained the highest opinion of Colonel Quintin as an officer.

Do you extend your opinion of Colonel Quintin to his personal conduct in presence of the enemy, as well as his conduct in the regiment?—I mean that I have observed his conduct to be exemplary under both circumstances: he commanded the regiment many months, whilst it was under my orders in England; and I never had a regiment under my command in more perfect order, or where the discipline appeared to be better carried on. On service I have upon several occasions witnessed his courage and calmness before the enemy: it would be tedious to go into a detail of circumstances, but it may be sufficient to say that on many occasions I have seen him in those circumstances.

President. Will your lordship relate the particular circumstances of the conduct of Colonel Quintin, in the affair of Benevente; they have been stated to me as particularly meritorious?—I believe the outlines of what I am called upon to relate, are these; that the cavalry having been left as a rear-guard to the whole of the army, there were picquets placed to watch the motions of the enemy: there was an in-lying picquet at Benevente, the rest of the cavalry were quartered in. A report came in, that the picquets were attacked; that the enemy was trying the fords, and pushing our advanced picquets: the in-lying picquet was immediately ordered out, and I believe that Colonel Quintin commanded the in-lying picquet. Nothing could be more meritorious than the conduct of the in-lying picquet: the enemy crossed in force considerably greater than theirs, and they received directions from me, through Lieutenant General Stewart to the officer commanding the in-lying picquet, which I believe was Colonel Quintin though General Otway was present. The advanced picquets had fallen in upon the in-lying picquets. The picquets

behaved most meritoriously, in repulsing the very superior body of the enemy. They were told to retire; but if the enemy pushed to a certain point, they must resist: they did resist, and made two very meritorious charges, which gave an opportunity for the supporting body to come up, and it ended in the total defeat of the enemy; and certainly the conduct of Colonel Quintin on that occasion was particularly meritorious, and particularly marked by me.

President. Is the Court to understand that you strongly expressed your sense of the services of Colonel Quintin on that day?—Certainly, most strongly; and not on that occasion only.

Major General Grant called again.

Examined by Colonel Quintin.

If you saw a regiment pressing the enemy with skirmishers, and charging in support of the skirmishers in column of division, about twelve in front upon a road, and you wanted to stop the pursuit, or prevent the regiment from going on, from seeing infantry in front, or any other cause, would you expect in sending orders, to find the Colonel of the regiment charging with the skirmishers, or charging at the head of the leading division of the regiment; or should you expect to find him in flank of the leading squadron, urging forward his men to support the charge?—I should certainly not expect to find him with the skirmishers, nor with so small a division. I should expect to find him with the supporting squadron.

State to the Court your opinion of Colonel Quintin as an officer?—The opinion which I had formed of Colonel Quintin as an officer was so favourable, that I regretted extremely not to find him in command of the 10th Hussars, when that regiment arrived at Lisbon. In saying this, however, I beg distinctly to state, that I am very far from intending any reflection or insinuation against Colonel Palmer, who then commanded the regiment, or the officer who afterwards succeeded to the command, Major Robarts. Judging from what I have seen and known of Colonel Quintin, I have no hesitation in stating, that were I placed immediately in command of a brigade in presence of the enemy, I should be glad to

see him at the head of a corps under my orders. Entertaining this opinion of Colonel Quintin, I should ill acquit myself to my conscience, did I withhold any thing I have now stated.

Serjeant George Cook sworn.

Examined by Colonel Quintin.

Were you present on the 28th of February when Captain de Grammont's squadron was ordered to advance?—Yes, I was.

State what you heard of Colonel Quintin on that day, where he was, and what he said?—I saw him in front of the regiment.

When?—On the 28th.

In what part of the day?—Towards the conclusion of the skirmish that happened on the road.

What did he say?—I heard him halt the skirmishers after they were retired, after the French fired a volley out of the wood.

Do you remember the fire of the infantry?—Yes.

Did the front retire in consequence?—The front of the 10th. Yes, they did; the skirmishers, and the advanced divisions retired for a considerable distance.

By whose order did they retire?—That I cannot say; I was not near enough to ascertain that, but they did retire.

Who fronted and halted them?—I heard Colonel Quintin say "Halt."

How near was Colonel Quintin to you?—Very near. I was near Captain de Grammont, I had Captain de Grammont's orders to be close. He rode a troop horse that day, in consequence of his horse being lame; he told me to keep close to him, and he sent me back to get him a troop horse.

Were you with Captain de Grammont the whole of the day?—No; not the whole of the day. I was with the regiment the whole of the day.

Were you with Captain de Grammont at the time you have mentioned, at the retiring and halting of the front?—Yes; Captain de Grammont went forward with the squadron he commanded.

Colonel Quintin. That is the whole of my evidence on this charge, except two orders.

The following Cavalry Order was read.

Dane, March 4, 1814.

Major General Lord Edward Somerset will be pleased to convey his best thanks to Lieutenant Colonel Quintin, and officers, and men of the 10th Royal Hussars, for their gallant and steady conduct yesterday, (Signed) STAPLETON COTTON, Lieut. Gen. Commanding the Cavalry.

J. Elley, Col. A. A. Gen.

Colonel Palmer. That alludes to the 28th of February. The order is dated wrong, if it is dated the 4th of March.

Judge Advocate General. Here is preceding it the 28th of February, then comes this which I have read, dated the 4th of March, then comes after that the 2d of March; but then before the 28th of February there is the 2d of March; so that they are not in regular sequence: but it is sufficient if it is understood on both sides, that it refers to the 28th of February.

The following order was read.

Wednesday, Brigade Orders.

Head Quarters, Casseres, 2d March, 1814.

Major General Lord Edward Somerset has much pleasure in making known the cavalry orders of the 28th of February, and the 1st and 2d of March, to the corps comprising his brigade; and joins with Lieutenant General Sir Stapleton Cotton, in expressing his perfect approbation of the conduct of the brigade, in the battle of the 27th ultimo.

He has particularly to thank Colonel Harrison, and the 7th Hussars, as also Major Gardiner, and his troop of Royal Horse Artillery, who had an opportunity of being more closely engaged with the enemy on that day.

The Major General has likewise to return his thanks to the 10th and 15th Hussars, for their gallant attacks on the enemy's cavalry, on the two following days; and feels convinced, that with troops thus dis-

ciplined, the most compleat success may be expected to attend their future operations against the enemy.

The Major General begs to acknowledge the assistance he received from the services of Brigade Major Jones, and his aid-de-camp, Lieutenant Somerset, on the above mentioned days; and requests they will accept his thanks for their zealous exertions on those occasions.

(Signed) E. H. SOMERSET,
M. General.

Adjourned to to-morrow morning, 10 *o'clock.*

SIXTH DAY.

Wednesday, October 26, 1814.

Third Charge.

Examined by Col. Quintin.

Private John Ford sworn.

Where were you when the regiment marched on the 10th of April last up the hill at Toulouse?—In the front of the regiment.

State where Colonel Quintin was?—At the front of the division.

Do you remember Capt. Fitzclarence being wounded?—Yes.

Where was Colonel Quintin at the time?—At the head of the regiment.

How near to Captain Fitzclarence?—About as far as from here to the window; by the side of the road.

Did you hear Colonel Quintin address himself to Capt. Fitzclarence after he was wounded?—Yes.

What did he say to him?—He ordered him to go to the surgeon.

Cross-examined by Col. Palmer.

Whereabouts were you; in the front rank?—In the front of the division; I was appointed as a skirmisher, and the left was the front that day.

You mean to say that Colonel Quintin was on the side of the road on the flank of the division?—He was on the left side of the road, in the front of the division.

Private John Castle sworn.

Examined by Col. Quintin.

Where were you when the regiment marched on the 10th of April last up the hill at Toulouse?—In the front division.

Do you remember Captain Fitzclarence being wounded?—Yes.

Where was Colonel Quintin at the time?—He was in the front—no, he was not in the front, he was passed a little on the side near the bank.

Where was Colonel Quintin?—By the side of the bank; he passed a little to the left by the side of the bank.

Was there a field on that side of the road on the other side of the bank?—Yes, there was; it was a highish bank.

Col. Palmer. The bank was very high, and the field was above the bank?—Yes.

And Colonel Quintin was under, in the ditch?—Yes, rather in the ditch.

He was in the ditch?—Yes, he was.

Col. Quintin. How near was he to Captain Fitzclarence?—No great distance; he was close to the side of the front division.

How far was he from him?—He might be five or six yards.

Col. Palmer. Capt. Fitzclarence was close to the men?—Yes, he was in front of the men.

Col. Quintin. Did you hear Colonel Quintin say any thing to Captain Fitzclarence after he was wounded?—Yes.

What?—He desired him to go to the rear. Captain Fitzclarence said he was only slightly wounded, and did not wish to go to the rear; and Colonel Quintin desired him again the second time, and wished him to go to the rear, which he did.

Cross-examined by Col. Palmer.

Captain Fitzclarence was close to the men in front?—Yes, he was close to the division in front of the men when he was wounded; we turned about by threes, and just as we turned about he was wounded in the thigh.

Did not Major Howard give the order to go about?—I will not say who gave the order to go about, whether it was Colonel Quintin or Major Howard.

President. Though Colonel Quintin was not immediately at the head of the column, I ask you now, was he opposite to the head of the column, and as much advanced as the head of the column?—Yes, he was.

But a little to the left of the division nearer the ditch?—Yes, nearer the ditch.

Serjeant John Jones sworn.

Examined by Colonel Quintin.

Where were you when the regiment marched on the 10th of April last up the hill at Toulouse?—In front of the regiment.

In what situation?—I covered Captain Fitzclarence.

Do you remember Capt. Fitzclarence being wounded? Yes, perfectly well.

Where was Colonel Quintin at the time?—In front of the division.

How near to Captain Fitzclarence?—It might be a yard.

You say Colonel Quintin was in front of the leading division?—Yes.

State the position in which he was.—The front, about the centre of the division, in the middle of the road.

This was at the time that Captain Fitzclarence was wounded?—Yes, at the time we advanced towards the French cavalry.

When was Captain Fitzclarence wounded?—In the morning, while we were advancing.

You state that Colonel Quintin was in front, about the centre of the division, in the middle of the road?—Yes.

Was that at the time that Captain Fitzclarence was wounded?—Yes.

Captain Fitzclarence was wounded while you were advancing, was he?—Yes, he was.

Did Colonel Quintin say any thing to Captain Fitzclarence?—He desired him to go round to the rear.

Did the men retire? They turned threes about for about ten yards.

Did Colonel Quintin give any caution to the men as they were retiring?—Yes; he ordered them to walk very slow, and be steady.

Cross-examined by Col. Palmer.

How far did you advance after Captain Fitzclarence was wounded?—We did not go, I think, a yard after that; we halted very soon after that; they commenced their firing upon us, and we did not go any further.

You mean to state that you were not halted previous to Captain Fitzclarence being wounded?—No, we were walking on towards the French cavalry.

You had not been previously stopped by the fire of the enemy?—No, we kept walking on.

Do you remember the circumstance of Mr. Wyndham being sent to Lord Edward Somerset, or being sent for orders?—No, I will not say that I remember any thing

about that, not to speak the truth, for I do not remember it. I cannot say any thing at all about that.

What was the interval between the halt and the turning about by threes?—I suppose three or four minutes; I do not think it could be more.

In what position was Captain Fitzclarence when he was wounded; how was he standing?—He was in front of his division.

Not in the front of his men fronting them?—No, facing the enemy.

Do you know whereabout he was wounded?—In the thigh; I do not know in what part.

Did not the ball enter at the back part of his thigh?—I do not know indeed.

You were his covering serjeant?—Yes.

Was not Captain Fitzclarence facing his men at the time he was wounded?—I cannot say indeed.

You must know better than any body else, and I desire you will tell, as you were his covering serjeant?—I cannot tell whether his back was to the enemy, or how, when he was wounded exactly at that moment.

Do you mean to state that Captain Fitzclarence was not fronting his men at the time he was wounded?—I cannot speak to the truth of that: he was wounded in front of the division; I cannot say whether he was facing the enemy at the time, or whether he was fronting his men. I know he was wounded in the right thigh; but the shot were flying thick in different ways, and I cannot speak to which way it entered his thigh; his sword was broken by the shot in his hand.

When was that?—At the same time.

At the same moment?—I cannot say whether at the same moment, but he said that the sword was broken; the blade was broken.

President. Who gave the word for your squadron to go in threes about?—Colonel Quintin.

Who ordered the division to halt?—Colonel Quintin.

Who ordered it to go about in threes?—Colonel Quintin.

What directions did he give to the men after he ordered the division in threes about? He ordered them to walk very slow and be steady.

When you went by threes about, and retreated slowly and cautiously as directed by Colonel Quintin, how far did you retreat before you became fronted again by

threes?—About ten or twelve yards; the 42d covered us.

The 42d infantry?—Yes.

Judge Advocate General. Who ordered you round again?—Colonel Quintin.

Serjeant George Cook called again.

Examined by Col. Quintin.

Where were you when the regiment marched on the 10th of April last up the hill at Toulouse?—With the front squadron.

Where was Col. Quintin?—In the front of it.

Do you remember Capt. Fitzclarence being wounded?—I recollect seeing him come back after he was wounded.

Did you hear Col. Quintin say any thing to Capt. Fitzclarence?—I did not hear what he said; he was saying something to him, but I was not near enough to hear what he said.

Cross-examined by Col. Palmer.

What do you mean by Capt. Fitzclarence coming back after he was wounded?—I saw him come back with a white handkerchief in his mouth at the time; he asked whether any body knew where his brother was.

Col. Palmer. If I may state the fact, I saw Capt. Fitzclarence in bed at Toulouse; he told me that he went to the rear, and came back again, after being wounded, and that then Col. Quintin pressed him to go to the rear. Where were you?—I was in the rear of the front division; I saw Capt. Fitzclarence come back from the front with a white handkerchief in his mouth.

How long were you halted before Capt. Fitzclarence was wounded?—I cannot exactly say.

How long should you say upon a guess?—I cannot exactly say how long; I did not exactly give it a thought that I should be brought on such a piece of business as this.

Was it a long or a short time; what was the occasion of your halt?—They said the infantry was in ambush to fire upon us.

Did not they fire upon you?—Yes, they did; and we were ordered not to go any further.

You halted when the infantry fired?—Yes.

How long after you were halted was it, that Capt.

Fitzclarence was wounded; was it two, three, four, or five minutes, or what time? I do not want you to commit yourself.—I cannot state exactly how long it was.

Judge Advocate General. Was it after you halted?—It was after we halted that I saw Captain Fitzclarence come back.

Col. Palmer. How far did he come back? was not he close to the men when he was wounded?—Yes, and he came back on being wounded.

Did you see him when he was wounded?—No, after he was wounded, and he had a white handkerchief in his mouth, and asked whether any body had seen his brother.

You were some files in the rear of the leading division?—I was not in the rear of it; I was close enough to see what was going forward.

But yet you did not see Captain Fitzclarence wounded?—No, but I saw what passed at the time he was wounded.

Major General the Hon. G. De Grey. Were you second file, or what file?—No, I was supernumerary in the rear.

Col. Palmer. I do not mean to ask whether you saw the ball go into him, but were you close enough to see that he was struck, or did the men before you say he was struck?—I saw he was struck, not exactly at the moment that the ball struck him, but I saw him come back.

Did you know that he was wounded before you saw him come back into the rear?—No, I did not.

President. Where was Colonel Quintin when the French infantry, or whatever infantry it was, fired upon the division?—He was in the left of the road in the front of the division.

On the left of the front of the division?—Yes, as nigh as I can speak, by the road side.

Private Thomas Goodyer sworn.

Examined by Colonel Quintin.

Where were you when the regiment marched on the 10th of April last up the hill at Toulouse?—In the front division.

In what part of the front division?—The left three of the front division.

Where was Colonel Quintin?—In the front.

Do you remember Captain Fitzclarence being wound-

ed?—He was wounded at the same time that I had my horse shot.

Where was Colonel Quintin at that time?—On the left of the front division by the side of the bank.

How near to Captain Fitzclarence?—About a horse's length.

Did you hear Colonel Quintin say any thing to Capt. Fitzclarence after he was wounded?—No, I did not; my horse was wounded at the same time, and I went to the rear.

Cross-examined by Col. Palmer.

How long, to the best of your recollection, had you been halted before your horse was shot?—Halted on the hill, do you mean; on the road before we crossed the bottom?

Was not your division halted at the time your horse was shot?—We went threes about at the time my horse was shot.

You had been put about at the time?—Yes, we had.

How long might you have been halted before you were put threes about; how long were you under the fire of the enemy before you were put about?—I suppose about the space of five minutes.

Do you recollect Captain Fitzclarence's position at the time he was wounded, how his horse stood?—No, I do not recollect; the word was given "Threes about," and my horse was wounded just at the time.

In fact, you did not look to Captain Fitzclarence, your own horse being struck you looked to your horse?—Yes.

You were front-rank man?—Yes.

Do you remember any conversation among the officers at the time you were under the fire?—No.

Do you remember Major Howard sending off Lieutenant Wyndham?—No, I do not.

President. Did the enemy continue to fire at you after you had gone threes about?—Yes.

How long did they continue firing at you after you had gone about?—I cannot say. I knew no more after my horse was shot.

Major General the Hon. T. Mahon. Who gave the order to retire?—Colonel Quintin.

Fourth Charge.

Major General Vivian sworn.

Examined by Colonel Quintin.

Do you remember the cavalry general order of the 26th of February, as to irregularities committed by some of the cavalry?—Yes, I do.

Did you at the time apply the order to any particular regiment?—No, I did not. Perhaps I ought to say I supposed it possible it might apply to some particular regiments; but I considered it a general cavalry order, and upon the strength of that order, I gave out an order to my own brigade, referring to that order.

How long, and where have you known Col. Quintin as an officer?—I think I have known Col. Quintin since the year 1798, that is, sixteen years; I have been in quarters with him in command of a regiment, and I have been on service with him in command of a regiment.

Where on service?—With Sir John Moore's expedition with the army in Spain, and also I may add with the Duke of Wellington.

State to the Court your opinion of Col. Quintin as an officer?—I have of late, since the return of Sir John Moore's army, had but little opportunity of seeing Col. Quintin at the head of his regiment as an officer; but prior to that I was in quarters with him in England, and in the same brigade with him on service, and I had always the highest possible opinion of Col. Quintin.

Col. Palmer. When yesterday I wished to cross-question General Cartwright on the character of Col. Quintin, I was stopped by the Court. General Vyse stated that it was very unusual to cross-question witnesses on character.

President. I believe it is totally unprecedented.

Col. Palmer. Then as I have on all occasions wished to accede to the wishes of the Court, I will do so still; but when I come to consider the evidence given to Col. Quintin's character, I must say that I consider it extremely exaggerated. As far as giving Col. Quintin the greatest credit for his conduct under Sir John Moore, I am ready to do it, and there is not an officer in the regiment that will not do the same; but if it is meant to say that he is better than any other officer, I must cross-examine to that.

Judge Advocate General. I really must interrupt this. I think that the best way will be for Col. Palmer to put his questions into writing, and then the Court will decide, question by question, and I shall give my best assistance to the Court in deciding upon each question, whether it is regular or not; but nothing can be more irregular than to take this opportunity of making statements as to the general inference to be drawn from the facts produced before the time arrives when Col. Palmer will have the opportunity of drawing all the inferences which may occur to him. With reference to the course of examination yesterday, if Col. Palmer means to refer to any observations that fell from me, nothing can be more compleatly misunderstood than I was. What I then meant to state, and what I fancied I stated, was, that when a witness was called to whom a general question was put as to general character, it was not customary either in this Court or any other, to cross-examine as to particular points; that any cross-examination might go on, if the intention was to discredit the witness; but if the intention was to examine the witness to particular points in which the character might be involved, the objection was this, that the Court was not assembled to try those circumstances which might be brought before them, nor could the officer on trial be presumed to be prepared with his defence to those facts; for instance, I will suppose that a general character being given to Col. Quinton, it was asked in cross-examination, how he behaved at the battle of Moralles? I should at once say that that could not be put on cross-examination, for this reason, that the Court are empowered to try only the charges before them, and there is no charge referable to that transaction; and that it is not to be expected that the officer on trial should be prepared to enter into his defence upon charges not made before the Court: that is the line of distinction I took the liberty of suggesting to the Court that any cross-examination of a witness, who gives a general character to the officer on his trial, is perfectly allowable, if the object of that is to discredit the witness; that it is also perfectly allowable, if the person who calls that witness, chooses to ask him to any particular facts, to examine to those facts; because they must be perfectly well known to the officer who calls him, and he must come prepared to enter into that investigation: and it would then be for the Court to judge how far they would enter into it; but I

believe the shortest and most intelligible way will be, that every question shall be put into writing, and that the Court shall decide one by one upon them.

Col. Palmer. But what I request the Court to consider is this—General Vyse tells me, that there never was an instance when a witness to character was cross-questioned: then in what situation do I stand here when Col. Quintin calls the witnesses——

Judge Advocate General. I must beg to interrupt here: because if the Court sees that Col. Palmer is put in any situation different from that in which any person stood whoever conducted a prosecution before a court-martial before, that is a situation in which the Court would not leave him, and if I saw it in that light, it would be a gross dereliction of duty if I did not suggest it to the Court, and endeavour to relieve him from it; but I believe the line I have laid down is the rule adopted not only in courts-martial, but in every court in the country: and I am sure it is not necessary for me to repeat to the members of this Court, that if there are rules of evidence that are laid down in civil cases before the common law courts, where the matter in question may be eight or ten pounds, it is much more necessary to keep them in view in a court-martial, where every thing dear to the person on trial is involved, not only his property, but his character and his life. Then look to the principle of the thing: it is not necessary that this Court should be tied down to technical rules, but look to what precedent is laid down as the general principle. The Court are sitting here for a particular investigation, and they have no right to deviate into one unconnected with that. The officer on his trial is here to answer the particular charges, and is not to be driven on to plead to others not connected with those charges. Apply these principles to what I have stated as to the cross-examination to general character, and then the Court will be to judge whether I have at all overreached the mark in the observations I have made.

Col. Palmer. Mr. Sutton. It is impossible for any one to be more convinced of the propriety and the fairness of your conduct throughout this proceeding than I am: I feel that you have rendered me every assistance it was in your power to do; but I must make a stand upon this point. I do conceive that it is most material if it is meant to infer that Col. Quintin's merits are so conspicuous and so great, as was stated by the witness yesterday,

to take the opportunity of General Vivian's presence to examine him to that point. The characters of the officers of the regiment are as dear to them as Col. Quintin's is to him; and no person can have heard the defence read yesterday without seeing the necessity of justifying our characters by these questions.

Judge Advocate General. If you will have the goodness then to write the question you mean to propose, I will take the opinion of the Court upon it?

Col. Palmer. Before I ask the question, I wish to state that I do not mean it in the least degree as discrediting General Vivian's testimony; but I request he will state the instances in which he can speak of Colonel Quintin's conduct. In the first place, I would beg to ask the duration of the campaign under Sir John Moore. If General Vivian does not recollect it, I will state it.

General Vivian. I remember it perfectly well, and will answer any questions Col. Palmer may propose.

Col. Palmer. What was the duration of the campaign under Sir John Moore?—We landed at Corunna on the 5th of November, 1808, and we embarked, I think, on the 14th or 15th of January, 1809. I speak of my own regiment; I forget whether the 10th landed on the same day.

Can you state the particular instances in which you have had an opportunity of judging of Colonel Quintin's conduct and merits?

Judge Advocate General. Now that is a question which comes directly within the view I have stated. Colonel Palmer states perfectly fairly that he thinks it is right for him to press it upon the consideration of the Court: it would be too much for me to maintain that I am right in the principle I have laid down; but I do think it so material that I beg upon this the Court may be cleared, and the opinion of the Court taken upon it; and I do it the rather in reference to the question now put, because it is impossible that any one can suppose I can know what will be the answer to it.

President. Then the Court must be cleared.

The Court was cleared.

After some time the Court was again opened.

Judge Advocate General. Colonel Palmer. The question submitted for the decision of the Court was this.

"Can you state the particular instances in which you "have had an opportunity of judging of Colonel Quin- "tin's conduct and merits?" The decision of the Court is, that the question as worded may properly be put to the witness; and I am desired by the Court to state the grounds upon which their decision is founded; that in calling any witness to general character, the character that he gives is his opinion; that it is perfectly open, therefore, to the party on the other side to ask him what means he had of forming an opinion. With that view the question falls directly within the rules that are adopted by this decision of the Court; but the Court proceed further to state, that when that question is answered, it will not then be in the power of the cross-examiner to investigate any of those instances which may so have been stated; and upon this principle, that upon those instances they are not called upon here to decide; that those instances the officer upon his trial is not called upon here to answer; that those instances may, and probably would, in many cases, (though not in this particular one perhaps,) involve the characters of other officers not before the Court, and which they have no opportunity of defending. Referring this general decision of the Court upon the point arising out of this question to what has passed, the Court have further taken into consideration the statement that was made in the course of the evidence of yesterday, at the close of the examination of Lord Uxbridge, a statement which I have not upon my notes, but which I believe is upon the proceedings, with respect to the particular conduct of Colonel Quintin at the transaction, that he mentioned, of an out-lying, or an in-lying picquet: the Court are of opinion upon consideration that that falls directly within the objection now stated as to any questions going into particulars, and therefore have decided that that narrative shall be expunged from the proceedings. The question I am now to put to you, General Vivian, is, Can you state the particular instances in which you had an opportunity of judging of Colonel Quintin's conduct and merits?—Yes, I can.

State them.—I was quartered with Col. Quintin at Ipswich, then Major Quintin, for a considerable time, I think nearly a year or more; during that time Lieut. Col. Leigh was very little with his regiment. I had constant and daily opportunities of seeing the regiment; it was, I thought, in the highest possible order.

Judge Advocate General. I do not know whether the answer is not going more into length than is within the rule.

Gen. Vivian. Major Quintin commanded at that time; from what I saw of the regiment I formed my opinion of Colonel Quintin as an officer in a very great measure.

Col. Palmer. Are there any other means you had of forming this general opinion?—No; I do not think that I ever saw Colonel Quintin in the command of the regiment but at that time. I should wish to have my evidence read over.

The evidence was read over to General Vivian.

Gen. Vivian. There is one part I wish to correct. Col. Quintin was not in the command of the regiment on service. Colonel Leigh was in command of the regiment.

Colonel Palmer. Can you state from your own knowledge, whether at the time you speak of, at Ipswich, Colonel Quintin was in the habit of issuing orders to the regiment; whether all orders relative to the discipline of the regiment were not the orders of Colonel Leigh?—It is impossible for me to state. I only saw Major Quintin there commanding the regiment. As to the internal arrangement of the regiment it is not possible for me state.

Are you aware that the officers of the regiment were not given leave of absence without an application being made to Colonel Leigh at that time?—I know nothing at all about that; I only formed my opinion from what I saw of the regiment. We were constantly out on field-days together, and I saw the state and appearance of the men at all seasons.

Do you or not conceive the actual commanding officer of a regiment is the person who is held responsible for its discipline, and not any other officer who may be in the temporary command, and who can only claim that credit which may belong to him for following up the system of his superior officer?—I certainly consider it the duty of every inferior field-officer of a regiment to follow the system laid down by his superior officer.

Major General Buller. Is not this a little departing from the line we have laid down?

Judge Advocate General. The Court would ask these questions, I suppose, if it was wished; but whether it is a question to be put under the rule laid down by the Court I am not prepared to state.

Col. Palmer. The commanding officer of a regiment

may be a good commanding officer, or not; he may go away three or four months, and leave an inferior officer in command, and he may have only to follow the directions of his superior officer.

Major General Rebow. But General Vivian states that he knows nothing of the internal arrangement of the regiment.

Judge Advocate General. What I understand General Vivian to state, is, that the regiment was in extremely good order, and that Major Quintin was in the command at the time. Whether that system on which he proceeded originated with himself or with Colonel Leigh he cannot state.—The impression upon my mind certainly was that Major Quintin commanded the regiment in fact.

Colonel Palmer. I made use of an expression which I am sure I did not intend, when it became the subject of argument, relative to the evidence that has been given in favor of Colonel Quintin; I believe I said that I conceived the evidence given in Colonel Quintin's favour yesterday was exaggerated. I did not mean that in an offensive sense, and I am sure the Court must feel that it was from delicacy that I did notcross-examine Lord Uxbridge; after the very high character he had given of Colonel Quintin; I felt could not cross-examine him.

Judge Advocate General. I am quite sure that the Court will feel what Colonel Palmer says as to the word which he nowexplains. As to the using of a word in the heat of speaking which one would not have chosen out of the dictionary, I am afraid if we had to answer for that I should have to apologize every time I speak.

Colonel Palmer. I mean to explain my sentiments upon this subject when I come to the reply.

Lieutenant General Lord Edward Somerset called again.
Examined by Colonel Quintin.

Do you remember instances of the 10th coming late to the ground occasionally on marching days?—Yes, I do.

Did this occur with respect to other regiments as well as the 10th?—Sometimes, but I think not so frequently as with the 10th.

Did it occur three times in the week when the army was marching with respect to the 10th?—Certainly not so frequently as that.

Were the regiments frequently very much separated and the roads bad?—Yes, they were.

Do you remember a court-martial on Serjeant Hyde being delayed on account of the warrant not arriving?—In the first instance the court-martial was delayed to wait for the receipt of the warrant holding a general regimental court-martial; afterwardsthe proceedings of the Court were interrupted by the movements of the army.

Cross-examined by Colonel Palmer.

Had you any opportunities of particularly noticing Colonel Quintin's conduct before the enemy during any of the periods mentioned in the charges?—In the advance on the 28th of February I observed Colonel Quintin generally to be at the head of the leading division. In the attack on the enemy's cavalry I cannot say positively where he was. When I delivered him the order he was at the head of the division; whether he continued there when they came up with the enemy it is impossible for me to say.

Is it not the invariable custom for a General returning thanks to a regiment or brigade for its conduct on any service, to include the name of the commanding officer?—Certainly it is usual, unless any part of the regiment has been detached, which has called for the thanks. If the regiment is acting in a body undoubtedly it is usual.

Was your lordship aware at the time of your returning thanks to Colonel Quintin, and the regiment, for their conduct on the28th of February, that Colonel Quintin had in any way misconducted himself?—Undoubtedly not.

Did you not after the receipt of the Adjutant General's letter of the 30th of March direct Colonel Quintin to take no steps in the interior discipline of the regiment without reporting to your lordship and taking your instructions?—After the receipt of that letter I directed Col. Quintin to report every instance of irregularity and disorder to me, that I might give him orders to act upon; I directed him to report every circumstance to me before he proceeded to punish the delinquents.

Colonel Palmer. Colonel Quintin stated in his defence that Mr. Morrison had acted improperly: I consider that a reflection upon the character of Mr. Morrison. If Colonel Quintin will call Mr. Morrison into Court, I will not ask any questions of Lord Edward upon the subject.

Mr. Harrison. Certainly, we do not intend to call him.

Col. Palmer. Do you recollect any complaint being made from Mr. Morrison as to Colonel Quintin interrupting him in the execution of his duty?—I have had complaints of Mr. Morrison that Colonel Quintin did not give him that support he expected in the hospital.

Did you not receive a letter from Mr. Morrison upon the subject?—Yes, I did.

Colonel Palmer. As Colonel Quintin will not call Mr. Morrison I should wish to put that letter upon the table, if Colonel Quintin will admit the letter; it is a letter of complaint against Colonel Quintin, which I wish to be laid upon the table, and more particularly as this implicates my own conduct.

Judge Advocate General. I must look at the defence.

The Judge Advocate General read the passage from the defence, and added:—

In order to meet that, Colonel Palmer has asked a question of Lord Edward Somerset, whether he ever received complaints from Mr. Morrison, who is the surgeon referred to here, that Colonel Quintin did not give him that support in the hospital he expected; and Colonel Palmer is going on in this course of examination, and wishes for the letter, which I presume the Court would think admissible, and that the cross-examination would either be perfectly fit to contradict this statement, that is, if he could shew that he made the report, or that it would be perfectly legitimate, on the other hand, if it was to give the reasons why the report was not made: with that view, I presume the question is asked as to complaints being made by Mr. Morrison to Lord Edward Somerset; then, I presume, Colonel Palmer is going on, founding himself on the complaint having been made by Mr. Morrison to state the circumstances respecting this report particularly specified.

Colonel Palmer. I will put it in this way; Colonel Quintin has stated in his defence that Mr. Morrison sent a report through Lord Edward Somerset to head-quarters respecting the sickly state of the regiment; did Mr. Morrison send such report to your lordship?—Mr. Morrison did not send the report through me, he sent it directly through the Inspector General, as is customary. It came to my knowledge that he had such a report, and I immediately communicated it to Colonel Quintin, and

I sent for Mr. Morrison to my quarters to meet Colonel Quintin.

Not being the commanding officer, did you conceive it was my duty to have mentioned the subject to you; do you conceive it was my duty, at that time, to speak to you respecting Mr. Morrison's report?—I do not conceive it was the duty of Colonel Palmer to speak to me on Mr. Morrison's report when Colonel Quintin was present, commanding the regiment: all the reports of Colonel Palmer would of course go to Colonel Quintin in his presence.

Did you not, in consequence of Mr. Morrison's mentioning the subject to you, speak to Colonel Quintin upon it on his return to the regiment; I believe he was absent for two days?—Mr. Morrison never stated to me that he had made that report to the Inspector General; it came to my knowledge accidentally after the return of Colonel Quintin. I then mentioned it to Colonel Quintin, and sent for Mr. Morrison to come to me; Colonel Quintin was perfectly ignorant of any such report.

I think you have stated that you do not conceive I had any thing to do with it?—Not when Colonel Quintin was present.

Did you conceive Col. Quintin as being absent from the regiment at that time?—Col. Quintin, if I recollect right, was absent three, four, or it might be five days, that he went to Bilboa.

Mr. Harrison. Ten days I am told.—It might be that time; but I cannot speak to that.

Col. Palmer. Was he absent at the time that Mr. Morrison made this report?—To the best of my recollection Mr. Morrison told me he was called upon to make a report to account for the sickliness of that regiment; but I did not hear of that report till after the return of Col. Quintin. Mr. Morrison told me he was called upon to make a report.

Was that before Col. Quintin returned?—I think it was before Col. Quintin returned, but it was after Col. Quintin returned that the knowledge of the report came to me accidentally.

Your lordship has stated that Mr. Morrison told you he was called upon to make a report: did your lordship desire Mr. Morrison to bring that report to you when made?—No, I did not. I asked him the report he should make, and I understood he meant to make a report in a

different manner from what he did ; it is customary for the Inspector General to call upon the surgeons to make reports from time to time, which are not sent through the commanding officers of brigades, and therefore the report was not sent through me.

Col. Palmer. I beg his lordship's pardon; but what I want to ascertain is, whether his lordship conceives that that report coming to my knowledge, any sort of impropriety attached to my conduct in not coming to him to report. Does your lordship think any impropriety attached to my conduct in not making that report known to you?—All occurrences in the absence of the commanding officer, of course ought to be reported by the officer next in command; and I think if Colonel Palmer was aware of that report being made in the absence of Colonel Quintin, it would have been right for him to have communicated it to me at the time.

Was not I in the habits of daily communication with your lordship?—Certainly.

Would it not have occurred to your lordship, if you had felt dissatisfied, to have mentioned the subject to me? —I remember a conversation with Colonel Palmer, in which he begged to explain to me why he had not reported it to me in Colonel Quintin's absence.

That conversation was subsequent to Colonel Quintin's return, and in consequence of Colonel Quintin having complained to me of my conduct?—It was.

I think as well as I recollect I stated to your lordship that my reason for not speaking to your lordship was that I knew Mr. Morrison had spoken to your lordship upon it, and that as that report implicated the conduct of Colonel Quintin, I thought it an indelicate thing to mention it; and I wish to ask whether your lordship expressed any disapprobation of that conduct?— I think that Colonel Palmer stated that he did not wish to interfere in the management of the regiment during the absence of Colonel Quintin, and that he did not mention the report to me in consequence of the delicate nature of that report.

Could I have prevented that report being made?—Certainly not; the surgeon having been called upon to make a report of the state of the regiment, and the cause of sickness, is bound to make that report to the best of his judgment, and of course is perfectly independent of the commanding officer of the regiment in making it.

What were your lordship's reasons for giving Colonel Quintin instructions to report all irregularities and disorders in the regiment?—I had two reasons for giving that order: one was, that I might be certain that no irregularities or disorders passed unnoticed without being punished; and the other that in case of any serious offence I might order it to be brought before a court of higher power than merely a regimental court-martial.

Did your lordship give the same instructions to any other commanding officer in the brigade?—I did not.

Why not?—The letter of the Adjutant General will sufficiently explain that. The discipline of the 10th was found fault with, and I gave these orders that I might be certain it was conducted with proper regularity, and that no disorders passed unnoticed.

Will your lordship state what steps you took in consequence of the complaint made to you by Mr. Morrison of Colonel Quintin's conduct?—I communicated the complaint to Colonel Quintin, and Colonel Quintin explained the matter, I presume, at the time to my satisfaction; the matter dropped. Mr. Morrison was removed from the regiment almost immediately after, to the best of my recollection.

Does your lordship know why he was removed?—He was appointed to a staff situation.

That was considered as promotion?—It was only a temporary appointment; but it was of course a higher situation than that of regimental surgeon.

Re-examined by Colonel Quintin.

Was it not the duty of Colonel Palmer to have reported the circumstance alluded to to Colonel Quintin upon his return from his absence, if he did not while he was absent, and Colonel Palmer in command report to you and take the proper steps upon it?

Col. Palmer. I think I may save trouble; I think Lord Edward Somerset has stated that he spoke to Col. Quintin himself upon his return; and I knew that. I have no objection to the question; but if it is asked to implicate my conduct, the Court will give me an opportunity of having it explained I am sure.—Certainly it was the duty of the officer in the temporary command of the regiment to report all circumstances to the commanding officer upon his return; consequently he might be called upon to make this report.

Col. Quintin. Can you recollect how long it was after Col. Quintin's return to the regiment before you mentioned the circumstance to him?—I cannot positively recollect; it might be two or three, or three or four days, not longer.

Did you on the day of the 28th give any order to Col. Quintin as to the distance to be kept by the supporting divisions?—I gave him frequent orders, at least I repeated my orders more than once, that the leading division should not be too near the skirmishers that acted in the high road: if they were too near the skirmishers they naturally received all the shots that came over the heads of the skirmishers.

Third Charge.

Did you give, or send any orders on the day of the battle of Toulouse to Col. Quintin, to take the two rear squadrons to some distance from the place where the regiment advanced up the hill, and the front squadron was left?—Almost immediately after I had halted the leading squadron in the high road leading up the hill, I received orders from Lord Combermere to leave one squadron of the 10th upon that road, and to move with the remainder of the regiment further to the left, to support the attack of the fourth division; that order I of course immediately communicated to Col. Quintin.

Did those two squadrons remain separated a considerable distance from the left squadron the remainder of the day?—The three other squadrons remained separated from the fourth squadron the whole of the remainder of the day.

Cross-examined by Col. Palmer.

Did you communicate Lord Combermere's order to Col. Quintin before or after Lieut. Wyndham had come to you for orders?—To the best of my recollection it must have been before.

Col. Palmer. I could really wish the question, as to Mr. Morrison, were set at rest. It may be recollected that when I was called up yesterday as to the signature of the officers, I particularly begged that Col. Quintin would examine me as to any thing he charged against me. Mr. Morrison having mentioned this to Lord Edward Somerset, I naturally supposed that his lordship would

mention it to Col. Quintin; and from the delicate nature of the report, I did not wish to interfere in it, as I was desirous of not having my opinion asked upon the subject.

Judge Advocate General. That may be taken as the statement of Col. Palmer of his reason for not reporting it. The question is asked whether it was not proper for Col. Palmer to have reported that to Col. Quintin on his return; Lord Edward Somerset states that it is the duty of the officer in temporary command to report to his commanding officer, on his return; and the explanation of Col. Palmer upon that subject appears to be as regular evidence as any thing can be.

Col. Palmer. I wish then to state that I did not know the time that this report was sent to head-quarters; that I knew Mr. Morrison had made a report to Lord Edward, and I naturally conceived that on Col. Quintin's return to the regiment, he would immediately wait, as it was his duty, upon Lord Edward, and that Lord Edward would communicate with him upon the subject; the particular reason why I did not wait upon Ld. Edward was, that Ld. Edward would have asked my opinion upon the report, and I did not wish to give it: it was a question between Col. Quintin and Mr. Morrison, in which I did not wish to interfere. I could not possibly prevent that report being made, nor could I mention it to Col. Quintin: if I had mentioned it to him, he would naturally have asked me what I thought about that report, and I did not wish to enter into it; if Col. Quintin wishes to ask me any question upon the subject, I am ready to be sworn, and to answer any questions upon the subject.

Judge Advocate General. The reason for my inserting this is, that you have been already sworn, and offering to give that explanation, I thought it quite regular to receive it from you as part of your evidence.

Major General the Hon. G. De Grey. Was it after the enemy's infantry had commenced their fire on the advanced division on the 10th of April, that you directed part of the regiment to proceed to another point?—Yes, it was after that fire.

Did Colonel Quintin proceed with that part of the regiment so detached?—I did not see Colonel Quintin immediately afterwards. The impression on my mind is that Lord Combermere had put the rear squadron in motion before he came up to me, and I galloped im-

mediately forwards to the head of that squadron that was also moving at a very quick pace; and I do not recollect seeing Colonel Quintin on arriving at the left of that division.

What I want to know is, whether Colonel Quintin accompanied those three squadrons, or whether he went afterwards?—Colonel Quintin did not go at the head of those three squadrons.

Col. Palmer. Sir Stapleton Cotton went at the head of that squadron, and I went with him: one went over the hill, and Capt. Lloyd's troop was halted in the road?—The time you are speaking to was rather afterwards.

Major General the Hon. G. De Grey. I want to know what became of Colonel Quintin when those squadrons were detached. Did he accompany those three squadrons or not?—He was not at that time, I think, with the leading squadron. I think Sir Stapleton Cotton moved that squadron before he gave the order, consequently he could not get there in time. I galloped forward, and moved up the hill. Colonel Quintin I did not see there at that time, but he joined very soon afterwards I know.

Did he remain with that part of the regiment during the rest of the day?—A short time afterwards one squadron was moved further to the left with Sir Stapleton Cotton. The whole of the brigade was moving to the left. Sir Stapleton Cotton sent orders that the leading squadron only should go forwards, and that the remainder should get under cover of the enemy's fire, and Col. Quintin went forwards with that squadron.

That was the left squadron?—It was the left in the line of march; it was not as we stood then; the squadron rather that went to the left.

Colonel Palmer. It is impossible, the squadrons being so divided, for Lord Edward Somerset to recollect exactly. I went with Capt. Lloyd's squadron myself.

Lieut. Gen. Lord Edw. Somerset. I understood that Col. Quintin went with you. I halted with the remainder, and therefore could not see whether he was with it or not; but I understood he was there.

Col. Palmer. Capt. Lloyd is here, and could explain that if it is wished.

Major General the Hon. G. De Grey. Did you consider the officers of the 10th Hussars gave due support to Colonel Quintin in the execution of his duty while under

your command?—The officers of the 10th Hussars seemed generally attentive to their duty; but of course where the system of discipline is relaxed, it will extend to all ranks more or less.

President. To what did you attribute that general relaxation of discipline in the 10th Hussars, which you have mentioned in your answer to the former question?—I certainly attribute it to the want of a proper system being maintained by the commanding officer, and the want of proper activity on his part.

What was the cause of that general relaxation which you state had extended itself through that regiment; and are you sensible that in a regiment of light cavalry upon very active service, in a very active campaign, and very much in an intricate country, that success must much depend upon the co-operation of officers commanding troops or detachments at distant and out-quarters?—Undoubtedly.

Col. Quintin. In what state was the regiment in its march through France, and on its arrival at Boulogne, as to men and horses, and regular conduct, as far as you had the means of observing?—The conduct of the regiment, in its march through France, was extremely correct and regular, and the troops arrived at Boulogne in exceedingly good order.

President. In how many different divisions did they march through France; how many troops were in a division?—The whole of the brigade marched in one division, but we were frequently very much scattered in the cantonments for a day in the beginning of the march; where a town would not put up the whole brigade, they were bivouac'd near that town; but afterwards we made arrangements so that troops which could not be put up in one town might be sent to the neighbouring villages.

Then in marching through France the majority of the regiment was always immediately under the eye of the commanding officer?—The regiment would be very often very much dispersed in the cantonments in the march through France, but in general more under the eye of the commanding officer than in any former operation; I mean when the army was in movement, not when the brigade was in stationary quarters.

Do you not attribute the greater degree of regularity which took place in the regiment in marching through France to their being more immediately under the eye of

the commanding officer?—Undoubtedly the more a regiment is together, and the more under the eye of a commanding officer, the less opportunity can there be for any disorders; and I also attribute it to additional exertions on the part of the commanding officer, after the receipt of that letter from the Adjutant General.

Col. Quintin. Did you inspect the regiment at different periods during that march?—As I marched daily with the column, except for a very few days, I had opportunities of inspecting the regiment frequently during the day's march, without having frequently any particular parades for the purpose; I took the opportunity as we marched.

Did you inspect it on the 27th of May, and on the 12th of July?—I cannot exactly recollect at this moment where we were situate on the 27th of May, and without calling that to mind I cannot state; the 12th of July must be the day when Gen. Payne inspected the regiment at Boulogne.

Do you know whether Lord Combermere inspected the regiment while Col. Quintin commanded it on the continent?—Yes, Lord Combermere certainly must have inspected the regiment during that time, I conceive.

You do not know the fact?—No, I cannot exactly say that he did; the probability is that he did. At all events, without making a regular inspection when the army is moving every day, and Sir Stapleton commanding that army, he would observe the regiment in its march on the road.

Judge Advocate General. The latter questions put by Col. Quintin have been adopted by the Court; of course, the Court will permit you to avail yourself of the same privilege.

Col. Palmer. I do not think it necessary to put any questions upon them.

Fourth Charge.

Serjeant Major Wells called again.

Examined by Colonel Quintin.

Do you recollect a court-martial having been held on a man named Abbott for drunkenness?—Yes.

What do you know about that?—I recollect Abbott being tried by a court-martial on the return of the regiment from Roncesvalles.

Was he punished?—Not by flogging; he was confined and ordered to walk in the drill a certain time.

Do you know the reason why he was not punished?—As I understood on account of his being unwell. I heard Captain Gordon speaking to Colonel Quintin concerning his ill-health, but I did not hear the whole that passed.

Was not the man sent to the hospital?—Soon afterwards.

Did he die afterwards?—Not in that hospital, he died afterwards at Lebau; he was in both the hospitals.

Judge Advocate General. You may ask whether the man was ill, and what became of him; but as to the reasons for his not being punished, this man can only infer them, of course he cannot know them.

Colonel Quintin. Do you remember a man that was complained of by Brigade Major Jones?—Yes, very well.

What was his name?—I cannot recollect certainly; but, I think White.

What do you know about that?—The man was confined, I remember that myself; the next day I was sent by Colonel Quintin to Brigade Major Jones to request that his servants and family would not give the men wine to drink. Brigade Major Jones asked me the man's character. I told him he was a very good man; he said he had heard so himself, and he sent to request the man might not be punished.

President. Was the man punished or not?—The man was punished by drilling and walk; he went from the drill to the hospital; he several days complained that he could not bear the drill, and he went from the drill to the hospital at Tafalla.

Colonel Quintin. Were you acting as adjutant on the 10th of April, when the regiment were engaged with the enemy on that day?—I was.

Do you know where Colonel Quintin went when the three squadrons were detached, when the enemy's infantry had commenced their fire on the advanced division of the regiment?—I went with Colonel Quintin to the left at the head of the regiment, where we were ordered, One squadron was ordered into a low ground or a hollow road, I believe it was a hollow road, the squadron was ordered to dismount; Colonel Quintin at this time I believe was with Lord Combermere; he went away towards our lines, the other squadron was ordered to retire from the hill out of range of the shot. At that time Captain Gordon fell; I took Captain Gordon up myself.

Major Gen. the Hon. G. De Grey. How many squadrons were ordered out?—Two squadrons.

Do you know where Colonel Quintin went, whether with the advanced squadron, or with that which was ordered out of range of the fire?—He went with the advanced squadron till they dismounted; I was with him.

Was it that which advanced towards the enemy?—Yes.

Col. Palmer. He talks of the advanced squadron dismounting?—Yes, in the hollow way.

That was Captain Lloyd's troop?—Yes, one squadron had previously been under the command of Major Howard.

The other squadron was where poor Captain Gordon was killed?—Yes, forwarder than that; there were two squadrons there where he was killed; Col. Quintin went forward with the other squadron.

Who commanded that?—Capt. Lloyd. Seeing Capt. Gordon fall I galloped to his assistance, and took him to a house, and when I came to the regiment under the hill, Col. Quintin had got his horse upon his arm grazing.

Major Gen. the Hon. G. De Grey. When you left him to the best of your belief he was with Capt. Lloyd's squadron in advance?—I went with him with Capt. Lloyd's squadron, and Col. Quintin went then to where the German Legion was, and when I saw him again, he had got his horse upon his arm grazing in the field which I have spoken to.

Col. Palmer. I would wish to ask him one question with the permission of the Court. What reason did Col. Quintin give for not punishing Abbott on the parade?—I never asked the Colonel's reason.

Were not you there; did not you hear it?—I was there.

Did you hear Col. Quintin give any reason for not punishing him?—I do not recollect that I did.

Was not it his good character?—Capt. Gordon had spoken to Col. Quintin; I heard Capt. Gordon state that he was called upon for his character, but at that moment would not give him one; but that he knew the man was very ill; I went away at that moment.

Did Col. Quintin state that as a reason to the men on the parade?—That I cannot recollect, whether he did or not.

You recollect Capt. Gordon speaking privately to Col. Quintin?—Yes, I remember his speaking to him near Pampeluna; I do not remember the name of the village.

Colonel Palmer. May I not call for that court-martial?

Judge Advocate General. Certainly.

President. I do not see that that can be of any use; the court-martial may have recommended him for that reason, but Colonel Quintin may have had another reason.

Colonel Palmer. But the fact, as the officers state to me, is, that the man was an excessively bad character, insomuch as that on his trial he was recommended not to ask for any character, and that the reason given by Colonel Quintin was his extreme good character: this is one of the grounds of complaint against Colonel Quintin, and I would wish to submit whether it would not be proper that that should be gone into.

Judge Advocate General. Certainly, the proceedings of the court-martial may be put in.

Colonel Palmer. I only wish that they should be put in. Do you mean to state that Captain Gordon did recommend him, or that he did not recommend him?—Yes, certainly; I heard him recommend him. I went away without hearing the whole.

The minutes of the court-martial were put in.

Judge Advocate General. The charge was being drunk on duty on the 10th inst.; the first witness is Lieutenant Charles Eversfield, who informs the Court that on marching the troop he observed the prisoner to be rolling on his horse, and in speaking to him found he was drunk; and that further the prisoner was very disorderly and unruly during the march; the witness reported it to Captain Gordon. Captain Gordon says, that he saw the prisoner drunk on his return from picquet yesterday, and that he had been most shamefully ill-treating his horse by spurring him on the shoulders, which were covered with blood: that is the evidence on the part of the prosecution. The defence is, the prisoner states that he had been drinking, but denies his being drunk; and that he spurred his horse on the shoulders because he would not go on when spurred behind. The sentence of the Court finds him guilty, and therefore sentence him to receive 500 lashes in the usual manner of the regiment; this is signed by the president, and approved by Lieutenant Colonel Quintin.

Colonel Palmer. I had thought that Captain Gordon was the president. I do not dispute any thing being said by Captain Gordon, but it does not appear upon the face

of the proceedings that he was recommended by the court-martial?—I know it was on the ground of the man's ill health Captain Gordon spoke.

Colonel Palmer. But you distinctly state that the reason assigned by Colonel Quintin for pardoning the man was not his extreme good character?—I do not state that that was the reason, or that it was not, for I did not hear it distinctly enough to state.

Colonel Palmer. If I might ask it of Colonel Quintin, I know nothing of it myself. I have the whole of the officers here, and if Colonel Quintin would call any one of them that were present at the court-martial he might state the fact.

Judge Advocate General. The fact, as it stands upon the proceedings is, that he was tried by court-martial, and that he was sentenced to receive 500 lashes; that he did not receive those 500 lashes; that he was ordered to drill for a considerable time; and this man says, that he heard Capt. Gordon speaking in his favour to Col. Quintin; that he does not recollect, or did not hear, what Col. Quintin said when the man was forgiven; that he was sent to the hospital, and remained there till he was removed to another place, where he died; that is all which appears. Whether it is worth while to go any further you will judge.

QuarterMaster Eyres called again.

Examined by Col. Quintin.

Do you recollect the trial of Abbott?—I remember his being tried.

Was he punished?—He was not.

Do you know the reason why he was not punished?—Principally from the bad state of health in which he had been for a long time.

Was he sent to the hospital?—Not just then; he went into the hospital at Leban on the 28th of April, and died on the 13th of May.

When was he pardoned of the punishment?—We were returning from Roncevalles when he was tried I think.

Judge Advocate General. When was the court-martial?

Mr. Harrison. In August, 1813.

Judge Advocate General. When was he taken into

the hospital?—The 28th of April, in this year, at Leban; he had been previously in the hospital at Tafalla; the man was punished I know by making him walk the drill till he was thought so ill that he could not go it: and I remember Captain Gordon saying to me that he should rather the man should not be punished; but whether he mentioned that to Col. Quinton I cannot say.

President. Did Capt. Gordon assign any reason to you why he wished the man should not be punished?—No more than that he thought the man was sickly, and that he had been a good soldier, and had served for some years.

Judge Advocate General. Then now it appears that the illness of which the man died was not that for which he was sent to the hospital soon after the court-martial?—He had an asthma, and whenever he got cold it flew to his chest.

Judge Advocate General. I understood the former witness that he was soon afterwards sent to the hospital, and continued there, and in another hospital up to the time of his death. Now it appears that he was not sent to the hospital the second time till many months after?—There was a regimental hospital at Tafalla, and a French hospital at Leban, where he died.

Serjeant Major David Boskett sworn.

Examined by Colonel Quintin.

Did you receive any orders from Colonel Quintin to make any enquiry as to some property stolen and to procure evidence?—I did.

What were they, and when?

Major Gen. Rebow. That person has been in Court all the morning?—I have been in Court; but what I am to swear to does not relate to what I have heard.

Col. Palmer. I am very much obliged to the hon. member; but if they had all been in Court, I should wish they should be examined.

Judge Advocate General. Were not you apprized you were not to be in Court?—No, I was not; what I have to mention has not any regard to any thing I have heard.

Judge Advocate General. Certainly I take for granted that the Court will feel that he might be objected to by Colonel Palmer, and that he can be examined only by permission of the prosecutor.

Col. Palmer. I beg that he may be examined at any period Colonel Quintin wishes, notwithstanding he has been here.

Judge Advocate General. You were ordered to make enquiries as to some stolen property?—Yes, I was.

When was it?—I should think the latter end of last March.

Did you find out the person who had stolen the property?—Yes, the person was found out.

Who was the man?—It was a man of the name of Miles that most of the property of any consequence was found upon.

What became of him?—He was ordered into confinement, and steps were ordered to be taken, particularly I recollect Colonel Quintin giving me orders that every step should be taken to bring forward the man who had lost the property, and to bring the man to punishment if he had stolen it. Colonel Palmer had dismounted the troop before Colonel Quintin's coming up, and he had stated the reason that property had been lost at the house where the troop of which I was serjeant major had been put up; and we found some trifling articles, such as a towel, and on another man we found a fowl and a peasant's shirt.

Was it those articles for the stealing of which Miles was confined?—Yes, a fowl and a peasant's shirt.

What was the result?—After about two days I think, or three, I gave orders to a serjeant of the name of Perrin to take every step, and to go to the house where he supposed this fowl and shirt had been stolen, which he did, and the first time he returned quite unsuccessful, the man was out of the way, either from being at work, or from fear of the regiment being quartered there perhaps. In the course of two or three days he brought forward a person who said he had lost the property; the consequence was, he was tried by a court-martial and punished. Col. Palmer was searching the troop himself, and assisted Capt. Turner and myself, and the non-commissioned officers of the troop in searching every part of the men's baggage, and had their saddle bags taken off; in the interim Col. Quintin came and rode up to the troop; I suppose he might be going to visit the outposts from the direction in which he was riding; he enquired of me what was going forward, and on that he gave me the orders I have mentioned, of course Col. Palmer would have given me the same or to my captain.

Were there two other men tried for the same offence on the same occasion?—Yes, I recollect a man of the name of Gillett being tried, and another of the name of Fuller.

What were they tried for?—Fuller was tried after the remount squadron came up to the regiment. Fuller was tried for killing a fowl, on suspicion of theft, however, and Gillett for the same offence.

What became of them?—Fuller was tried while the squadron was on the march after disembarking at ———, but the sentence was not carried into execution: what his sentence was of course, I did know till he was punished.

Was he punished?—Yes, he was.

What became of Gillett?—Gillett was tried and punished also.

Colonel Palmer. What was the man's name that was tried for killing the fowl?—William Fuller that was once a serjeant.

Judge Advocate General. Were Fuller and Gillett tried for offences, at the period that Colonel Palmer dismounted the men?—No, Gillett's occurred afterwards, and Fuller's before the re-mount squadron rejoined the regiment.

Colonel Palmer. How many days had they arrived?—It was some time in March, but I cannot state the exact period.

Judge Advocate General. The questions, as to Fuller and Gillett, I understand, were put under a misconception, that they were for the same offence.

Colonel Palmer. The re-mount squadron had not been up long before that?—No.

Judge Advocate General. How long had they been up?—I should suppose a fortnight. Fuller was punished during the halt of the regiment, prior to our crossing the river.

Colonel Palmer. This is a fact, in which I am personally concerned. I have stated to the Court, that Captain Turner did not give the precise fact in his evidence. I stated, that I had a conversation with Colonel Quintin, at the period, and I should wish, if Colonel Quintin would permit me, to be sworn, and to give an account of the transaction.

Judge Advocate General. You are sworn, and may give the account.

Colonel Palmer. Then I will do so. I wish to state,

that I was quartered very near there, that the people on the morning, immediately after the troop had left it, came to me to complain of the house being plundered; I went myself, and saw the house completely ransacked; every cup-board, and every place that was locked, broken open, and they told me that the whole of their linen, and every thing else in the place had been taken. I rode after the troop as hard as I could; I made every man take off the whole of his things, and proceeded to search: whilst I was in the midst of that search, Colonel Quintin came up, and my situation was an extremely unpleasant one. I had been abusing the men, and telling them the disgrace they brought on the service. Colonel Quintin being the commanding officer I did not know what to do. I mentioned to Colonel Quintin quietly, what I was doing, and he asked me, whether I could prove it, or something of that sort, and after that, he sat upon his horse for a few minutes, and he said, if I could prove the fact he would bring the man to a court-martial, and he would have him punished. It was not in the presence of the men, and I could not help saying warmly to Colonel Quintin, that it was of no use my doing these things, if he would not support me; that the men must see from his manner, when he came, that he did not support me, and that it was no use my doing what I did, under such circumstances.

Colonel Quintin. The Serjeant Major proves I did give directions to him to make enquiries.

Colonel Palmer. But I expected that Colonel Quintin would say something to the regiment, when I reported it. I have been obliged to collar men in the ranks; I have been compelled to use personal violence with the men; I have told a man he was drunk, and he has told me very coolly that he was not. I do not wish to speak of my own merits, or what I have done; but the Serjeant Major knows I have paid out of my own pocket for robberies committed by the men; and if Colonel Quintin doubts that, let him call Serjeant Wells, and ask him whether that is not the fact.

President. In this case, it appears that the Quarter Master received directions from Colonel Quintin, to collect as much evidence as he possibly could, to bring this man to a court-martial, prior to Colonel Palmer's conversation with Colonel Quintin.

Colonel Palmer. If that was the intention of Colonel Quintin, would he not have spoken to me? I was the commanding officer, and making the enquiry; and if he had told me he approved of my exertions, and would make a severe example of them, why should I make any complaint to him upon it? If I supposed he was ordering enquiries to be made, that would have been perfectly satisfactory to me; but he never said any thing of the kind.

Judge Advocate General. I take it, it appears quite clear, now upon the evidence, that Colonel Palmer dismounted the troop, and searched the men, that Colonel Quintin came up, that he told Colonel Quintin what he was about, that Colonel Quintin said nothing in return to him, except, that if he could prove the thing, he would bring the man to court-martial, and did not tell Colonel Palmer that he had given directions for enquiries to be made. Colonel Palmer says, that his sitting upon his horse, and taking no part, while this was proceeding, must make a very awkward impression upon the men. These facts being all upon the evidence, I think the matter is regularly presented for the consideration of the Court.

Colonel Palmer. Upon my oath, I did not conceive my life in safety. The men were in that state of drunkenness, that they were mutinous. It was their constant practice, when they got into a house, to lay hold of every thing. I have turned the whole of them out, and put them into bivouac, and put sentries on the door of the house, to prevent any man coming in, and that other captains can state.

Serjeant-Major Clark sworn.

Examined by Colonel Quintin.

Do you recollect a man being charged with killing a sheep?—Yes.

Who was he?—Aslett and Stephen Charlton: there were two men.

What became of them?—The men were both discharged.

Were they tried?—No, they were not.

Were they confined?—No, they were not.

Was there any enquiry made?—The captain made the enquiry.

Who was the captain?—Captain Harding.

They belonged to Captain Harding's troop, did they?—Yes.

Did you enquire into the evidence?—The captain examined them in my presence.

Whom did he examine?—The two men themselves.

What was the result of that?—It was clear, the captain said, that they were both guilty, and he should report them.

Did he?—I am not positive of that. I believe he did not.

Did you state the nature of the evidence to Colonel Quintin?—I think I stated it to Colonel Quintin the other day, the same as I have now.

But not at the time?—Not at the time: I left it to my captain to do it.

President. How long was it after this detection, before the men were discharged?—They were not discharged till they came to England.

Colonel Quintin. Were the men confined?—No.

Do you know what proof could be obtained against the men?—Nothing; but only the things found by the sheep, which were killed; a canteen belonging to one of those two men, was found near the dead sheep, and a corn sack belonging to another.

Colonel Palmer. Do you recollect one night my turning the whole troop, or part of it, that was in a house, out, for their irregularity?—Yes, I was in it myself.

I wish you would state the circumstances, for they were circumstances of peculiar aggravation.—It was on the 26th of February; I believe, the day we mustered, the 25th or 26th; it must be the 25th, I believe. I went with Colonel Palmer to a house, where there were some men at dinner making free with the person's wine, and eating his bacon; we found one of the men, a man of the name of Gilbert, with the bacon by him, and two or three with wine; Colonel Palmer turned them immediately out of the house.

Do you remember my keeping them out all night, and ordering sentries?—Yes; you ordered me to put sentries on.

Did you not consider them in a disorderly and mutinous state from drunkenness?—They were.

Were not Captain Harding and myself obliged to use personal exertions upon that occasion?—Captain Hard-

ing came up afterwards; Colonel Palmer was the first man that went in.

Do not you remember when I came in, Gilbert sat down in a chair, eating the bacon, and looking at me the while, and that I knocked him out of the chair?—Yes; you knocked him out of his chair, and turned them all out.

Colonel Palmer. I never struck a man before belonging to the regiment; but in a state of mutiny like that, it was impossible to do otherwise.

Do you remember Captain Harding being obliged to do the same thing?—A few nights after that, Captain Harding struck Stoner, a man on this Court now, for his misbehaviour and mutiny.

Judge Advocate General. Colonel Palmer; Colonel Quintin has delivered in the minutes of the court-martial on different men, with the list, shewing how many were before, and how many after Colonel Quintin came into the command, so that the list may be examined with the minutes of the court-martial.

Colonel Palmer. I do not feel that to be necessary; I have no doubt they are correct.

The list was read, as follows;

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Judge Advocate General. Here are some regimental orders put in ; they are in the books.

The following Orders were read.

LIEUTENANT COLONEL QUINTIN'S R. O.

Tafalla, August 13th, 1813.

Lieutenant Colonel Quintin particularly cautions the men against losing any part of their arms or accoutrements; he is determined to make them pay for the loss of the same; and also will make an example of any man who is so neglectful as to occasion a report so disgraceful, to be made to the commanding officer.

LIEUTENANT COLONEL QUINTIN'S R. O.

Tafalla, September 1st, 1813.

Lieutenant Colonel Quintin requests captains of troops will immediately squad their troops, and where there are more than one subaltern to a troop, each will take an equal proportion, and they will be responsible to the captain for their squads; they will at least visit their squads twice in each day, at which time they will inspect the arms, ammunition, horse appointments, &c. as also will see the men's messes are regular; any irregularities are immediately to be reported to the captain of their respective troops.

The officer of the day will be present at guard-mounting, and will visit and inspect the guard once during the day, and once after ten o'clock at night; he will also visit the hospital, and workshops, to see every thing is regular, and report of his having done so in his guard report; any irregularities he may observe during the day, is immediately to be reported to the captain of the day; the commanding officer begs captains of troops will see the above orders most strictly complied with.

LIEUTENANT COLONEL QUINTIN'S R. O.

Garrénoain, October 8th, 1813.

Inspection of necessaries at ten o'clock, A. M. every man to attend.

LIEUTENANT COLONEL QUINTIN'S R. O.

Garrénoain, October 11th, 1813.

The commanding officer requests that the subaltern officers will refer to the order of the 1st September last, to see that the men's dinners are regular; the quarters cleaned; the

accoutrements properly arranged, and also clean in their persons: which they are daily to report to the officer commanding the troop, who will specify in his weekly report of his having done so. The surgeon of the regiment will visit the men's quarters at Tafalla, at least once every week, and report in writing to the commanding officer, if he perceives any of the quarters detrimental to the men's health.

A report of the sick will be sent to head-quarters every day, and the names of the men admitted into hospital, and the state of their necessaries, as also the cause of their sickness.

The assistant surgeon at head-quarters will visit the quarters there, as also those at Sulchaya and Oronez, and report in the same manner as pointed out to the surgeon.

LIEUTENANT COLONEL QUINTIN'S R. O.

Garrénoain, October 12th, 1813.

The commanding officer requests, that officers commanding troops will immediately cause the men of their respective troops, who have four shirts, to have one valued by two old soldiers of the troop, for the purpose of supplying those who are in immediate want of shirts.

LIEUTENANT COLONEL QUINTIN'S R. O.

Garrénoain, October 15th, 1813.

Lieutenant Colonel Quintin requests, that officers who have private servants, will acquaint them that, during the time they are in this country, they are under martial law: and the very first that is reported to him, of breaking open doors, &c. or ill-using the inhabitants, he will bring him to a court-martial. The commanding officer further orders, that all private servants of the regiments will attend parade when the articles of war are to be read.

LIEUTENANT COLONEL QUINTIN'S R. O.

Donna Maria, November 14th, 1813.

The commanding officer once more calls the attention of officers commanding troops, to an order issued for subaltern officers to attend the foraging parties; and begs, that order may be strictly complied with; and further desires, a farrier may always attend the foraging parties in futnre, and, that two days straw is always kept in possession; and the nets are at all times to be kept full, so as to be ready to march at the shortest notice.

LIEUTENANT COLONEL QUINTIN'S R. O.

Orowia, November 23d, 1813.

The commanding officer particularly requests, that one officer per troop always remains in the cantonments of their troop; and further desires, that when officers employ dragoons to go to Pampeluna they are on no account to go without a written pass, which is to be given to them, so that they return to their quarters by five o'clock in the evening: as no man, on any account, is to be absent from his quarters after that time.

LIEUTENANT COLONEL QUINTIN'S R. O.

Orouia, December 3d, 1813.

Lieutenant Colonel Quintin requests, that the officers will pay more attention to his orders; and not absent themselves from parade without his leave.

LIEUTENANT COLONEL QUINTIN'S R. O.

Licomberie, December 16th, 1813.

The baggage to be formed on the left of the regiment, and on no account is it to move off before the march of the troops.

LIEUTENANT COLONEL QUINTIN'S R. O.

Cyargund, December 19th, 1813.

The commanding officer once more calls the attention of the officers to an order issued on the 16th, respecting the baggage, and begs it may be most strictly complied with.

LIEUTENANT COLONEL QUINTIN'S R. O.

Halcoy, December 22d, 1813.

Lieutenant Colonel Quintin requests, that, on the discovery of forage or corn in or near any of the cantonments, where the regiment may be quartered, an immediate report may be made to the commissary and foraging quarter-master, so that it may be equally divided to the regiment.

LIEUTENANT COLONEL QUINTIN'S R. O.

Bas Cambo, January 24th, 1814.

The commanding officer requests, that no man of the regiment is sent out to forage, except by a regimental order.

LIEUTENANT COLONEL QUINTIN'S R. O.

Bas Cambo, January 2th. 1814.

Complaints having been made to the commanding officer, that some buildings have been pulled down for the purpose of providing fire wood for the use of the troops, the commanding officer therefore particularly desires that officers commanding troops, and subalterns and non-commissioned officers may be particularly attentive in preventing this abuse, and further directs that any man detected in this practice may be immediately confined and reported, in order that he may be brought to punishment.

LIEUTENANT COLONEL QUINTIN'S R. O.

Bas Cambo, January 30th, 1814.

The commanding officer having again received complaints of the buildings, &c. being destroyed for fire-wood; he is under the necessity of ordering a daily report to be given in, from each troop, by four o'clock, of the officers having visited the men's quarters, which report is to state if the inhabitants have any complaint to make.

LIEUTENANT COLONEL QUINTIN'S R. O.

Tarsac, March 11th, 1814.

The commanding officer requests, that the officers and non-commissioned officers will visit the quarters occupied by their troops frequently during each day, and enquire of the inhabitants, if any complaints, and of what nature. Any irregularity is to be immediately reported for the information of the commanding officer.

LIEUTENANT COLONEL QUINTIN'S R. O.

March 24th, 1814.

The commanding officer has noticed the repeated neglect in turning out the troops, when ordered to march, and requests in future, those officers commanding troops, and of course, the subaltern officers will be always first on the troop parade, and report any one negligent in turning out.

LIEUTENANT COLONEL QUINTIN'S R. O.

Near Tournefille, April 1st, 1814.

The regiment will assemble in marching order, at head-quarters to-morrow morning at half past eight o'clock, for

the inspection of Major General Lord Edward Somerset. Every man and horse possible to be present; Baggage animals to be loaded.

Lieut. Colonel Quintin, once more calls the officers' attention to an order issued for officers to visit the cantonments of their respective troops, at least twice during each day, and ascertain from the inhabitants if they have any complaint to make against the men quartered on them, which order is most strictly to be complied with: all complaints against the regiment to be immediately reported to the commanding officer, in writing.

LIEUTENANT COLONEL QUINTIN'S R. O.

Near Tournefille, April 2d, 1814.

Officers commanding troops on their arrival in cantonments, will immediately place sentries on the wine-houses, as also on all wine-cellars.

LIEUTENANT COLONEL QUINTIN'S R. O.

Lespenac, April 4th, 1814.

The commanding officer requests, that all picquets, when relieved, may be marched to the regiment by the officer commanding it, and they are on no account to be left until regularly dismissed.

The commanding officer further orders, that no officer quits the squadron on the march.

LIEUTENANT COLONEL QUINTIN'S R. O.

Villandree, April 26th, 1814.

The commanding officer once more calls the attention of the officers to an order issued some time since, for their attendance at the quarters, occupied by their respective troops, to enquire if the inhabitants have any complaints, and begs that order may be most strictly complied with.

LIEUTENANT COLONEL QUINTIN'S R. O.

Villandree, April 28th, 1814.

Lieutenant Colonel Quintin requests, that officers of troops will frequently visit the men's quarters, to see that the arms and accoutrements are kept clean and properly arranged, and the men clean in their persons, as also the quarters.

LIEUTENANT COLONEL QUINTIN'S R. O.

Villandree, May 3d, 1814.

The commanding officer has again to call the attention of officers in command of troops, to the repeated orders which have been issued, relative to their visiting their men's quarters, and inquiring into any irregularities which may occur. So many instances of this nature have lately been reported to him, that he is under the disagreeable necessity of informing officers in command of troops, that should such conduct of the men be again represented, he will be under the necessity of reporting it to the Major-General.

Colonel Palmer. The only court martial of which I wish the minutes to be put in, is one of the 10th December, on a man of the name of Northcut.

Colonel Newport, of the 9th Light Dragoons, sworn.

Examined by Colonel Quintin.

Have you had any opportunity of seeing Colonel Quintin on service, and in presence of the enemy?—I have.

Where?—On two different occasions, during Sir John Moore's expedition: once on a charge with a single squadron at Leorgar; afterwards in command of the in-lying picquet at Benevente.

From what you have seen of Colonel Quintin, what is your opinion of him as an officer?—On the occasions I have mentioned———

Judge Advocate General. We cannot go into the particular occasions: after having had opportunities of forming a judgment, you are now asked your judgment?—Forming my judgment from the circumstances I have stated, Colonel Quintin upon those occasions appeared to me to do his duty steadily and well.

Judge Advocate General. Those are the two instances from which you form your judgment of Colonel Quintin's conduct before the enemy?—Yes.

As far as you can form your judgment from those two instances, your opinion is that he acted steadily and well?—Just so.

Colonel Palmer. You were Captain of the 10th at that time?—I was.

Colonel Palmer. I have a note sent in by Lord Uxbridge, in which he says that he understands what he stated yesterday cannot be received in evidence, and that he is ready to answer any questions I may have to put to him.

Judge Advocate General. Lord Uxbridge conceives that the reason why we expunged from the minutes his account of the affair at Benevente, is, that he was not subjected to cross-examination upon it: it was not for that reason, but that it was not a proper subject for enquiry.

Colonel Palmer. If Lord Uxbridge wishes to come in, I have no objection; but I have no wish to put any question to him.

President. According to the rule we have drawn, it was not admissible.

Captain Duperier sworn.

Examined by Colonel Quintin.

Have you had any opportunity of seeing Colonel Quintin on service, and in presence of the enemy?—I have.

Where?

Judge Advocate General. It appears to me that it is not regular going into that: he states his judgment; the other side may cross-examine as to the grounds of his judgment.

Colonel Quintin. What opportunity had you of seeing his conduct in the presence of the enemy?—I had two opportunities: one at Mayorca, and the other at Benevente, in charging the enemy.

From the opportunities you have had, what was your opinion of Colonel Quintin's conduct and character?—I never saw a braver man in the presence of the enemy in my life.

Cross-examined by Colonel Palmer.

Was not Colonel Leigh in command and present at the affair of Mayorca?—Colonel Leigh was present; he commanded the regiment. I saw Colonel Quintin come up while I was skirmishing, but I did not see Colonel Leigh. I saw Colonel Leigh afterwards.

There were only two squadrons engaged?—There were two squadrons. I do not remember whether the left was in front, or the right that day.

As you were adjutant, you saw who led the squadron before the enemy?—Colonel Quintin. I did not see Colonel Leigh, after the word to advance was given. I went on, and of course took care of myself, and looked before me, and could not see particularly.

Will you take upon yourself to state, that Colonel Leigh did not lead the men on to the enemy, and

whether he did not previously halt the horses, to give them wind?—I was skirmishing with seven men: there were eight came out of the town with me, but one of the horses fell down.

Did you charge the enemy in line?—Yes; the squadrons advanced together. I am not sure whether they were both in line or not; but the squadrons overtook me; I went on with the charge.

Judge Advocate General. Are you certain that Colonel Leigh did not lead this squadron into the charge?—I am not.

Colonel Quintin. Colonel Leigh was with me, in front of the squadron in charge.

Colonel Palmer. Colonel Leigh commanded?

Colonel Quintin. He did.

Colonel Palmer. At the time the squadron charged?

Colonel Quintin. Yes, he did.

Colonel Palmer. That is sufficient. Mr. Duperier states that he did not see Colonel Leigh. Did you see Colonel Quintin personally at the affair of Benevente?—I saw him, and was desired by him to go and turn out the regiment if they were wanted.

Did you not turn out the men in the town?—In the convent; they were not in the town.

How far was it from that to where Colonel Quintin was?—It was a great distance, but it was on an elevation, and I could see what was doing.

Did you turn round to see what Colonel Quintin was doing?—It was right before me; the convent was obliquely; I saw the picquet go down, and followed them with my eyes all the time.

Did you see Colonel Quintin?—I saw him at the head of his picquet.

He went on with his picquet towards the enemy?—Yes.

You went towards the town?—I was out of the town at that time.

If his men were between you and him, how could you see Colonel Quintin?—I saw him from an eminence.

Were not you very anxious to turn out the men?—I was waiting to see whether it would be necessary to turn them out or not; whether the picquet would drive the enemy over the river or not.

You were in the town when he was at the picquet; what was the distance from the picquet, where he was charging?—A good distance; it may be half a mile.

Was not it more?—It might be more; but they were inclining towards the convent at the same time.

Did the French come within half a mile of the town?—No; perhaps not quite so near.

Colonel Palmer. It strikes me the distance was two miles.

Judge Advocate General. He says he was going on in an oblique line?—The picquet was near the town, and I followed the picquet at some distance, inclining to my left, to where the regiment was under the command of Colonel Leigh.

Colonel Palmer. Mr. Duperier was busy turning out the regiment: as to Colonel Quintin's conduct at that time, every body who saw it was satisfied with it; but all I mean is, that he could not observe it.

President. He says that he saw from an elevation what passed, and that he was not turning out the men, but judging from circumstances whether they should be turned out.

Major General Rebow. But if Colonel Palmer is satisfied with Colonel Quintin's conduct at that time, is it necessary to enter into all this?

Judge Advocate General. The evidence upon the fourth charge is closed; and I wish to submit to the Court a paper which has just been put into my hand by Colonel Quintin, which is an answer from Lord Stewart, inclosed in a letter directed to Colonel Quintin. Colonel Quintin wished Lord Stewart to appear upon this court-martial to be examined to character. Lord Stewart's letter upon character I will not read; but here is Lord Stewart's letter in respect of his appearance, dated the 10th of September, 1814; in which he states his inability to attend this court-martial to give his testimony; but that he has enclosed a letter giving his opinion of Colonel Quintin's conduct and character; and then he adds, "he requests, however, it may not be opened until Colonel Quintin goes into court; as whatever his opinions of Colonel Quintin may be, he wishes them to be in no wise canvassed till the proper opportunity occurs." The consequence was, the letter was not opened till to-day, and Colonel Quintin has not read it. However, it has been put into my hands; and like other letters to character, it may be conceived, it is highly complimentary. I find, however, the letter, in giving a character to Colonel Quintin, states particular facts which

called for his (Lord Stewart's) approbation, those particular facts, the Court have already decided, could not be examined into, if Lord Stewart was here present as a witness; much less, therefore, could they be received in evidence when merely from a letter. Then the answer to that is, that nothing is more common in the ordinary course of courts-martial, than when officers cannot attend that their letters should appear attached to the speech of the party though not in evidence; that is perfectly true: and if this letter confined itself to a mere opinion of character and conduct, I should certainly have thought the letter might be laid before the Court; but having read the letter, I am bound to state what is my feeling upon it, that as it embraces particular facts, those ought either to be entirely canvassed, or not to be mentioned; and the Court having decided they should not be canvassed at all, I think the Court should not allow them to appear upon their proceedings, though it may be unfortunate to the party, that this letter, from its verging into that, should not be put upon the minutes. The members of the Court will form their opinions upon this: it appears to me clearly, that it does fall within the rule the Court have settled this morning, and that therefore the letter should not be produced.

Colonel Palmer. I beg pardon for offering a word upon what the Court have already settled. I conceive this to be only with reference to what is stated in evidence before the Court; but Lord Stewart not being here, I submit, as far as I have any thing to do with it, that his letter may be admitted, annexed to the defence of Colonel Quintin.

Judge Advocate General. Nothing can be more fair than the proceeding of Colonel Palmer upon this subject; but I think the principle is perfectly embraced: at the same time I should be sorry that Colonel Quintin should be deprived of the testimony of Lord Stewart by my opinion.

Colonel Palmer. Colonel Quintin could not be aware of its contents, so as to guard against the objection.

Judge Advocate General. It is clear from the letter enclosing this, that Colonel Quintin never could know the contents of it up to this day. I should have been better pleased if the question had not been referred to me; for I fear that what I recommend may be considered as harsh towards Colonel Quintin. Colonel Palmer very handsomely does not object to the letter being received; but

I fear the principle laid down by the Court is against it.

President. I would submit that, if it is consistent with the regularity of this Court, this letter might be read, and added as a sort of addenda to the general defence read by the Judge Advocate to the Court.

Judge Advocate General. The objection I meant to state in the outset to that, was, that if this letter had been in general terms an answer to the general question, what is your opinion of my character as an officer; there could have been no objection to its being added to Col. Quintin's speech, and that the Court would not have objected to its being added now not being opened till to-day; but on reading this letter, it states not only a general opinion, but the particular grounds upon which that opinion was formed, and particular instances in which Colonel Quintin had conducted himself to the admiration of Lord Stewart: then I think the letter becomes objectionable upon the principle before decided, and that the letter cannot be cut and so much shared out as would be consistent with those general rules.

President. I only wish to submit to the Court, whether as Colonel Quintin lay under the strongest obligation not to open the letter till it should appear in Court; and it has never been read by Colonel Quintin, even up to this time; if there is any thing to his advantage in that letter it might not be brought in, (if it is the opinion of the Court that it is no breach of regularity which we ought to adhere to,) and attached to the speech read to this Court by the Judge Advocate at the opening of the defence.

Judge Advocate General. I have endeavoured to state why the letter, if opened earlier, could not, consistently with the rules already laid down, have been attached to that speech, because it went into detail on particular facts and particular occasions; and the Court have decided that they cannot enquire into those; and if you once decide that you cannot enquire into them, it follows as a necessary consequence, that you cannot have them stated. The letter appears to me to be very much of that character. It is painful to me, as it must be to the Court, to be throwing back evidence which might be useful to an officer standing upon his trial, and not less painful because Colonel Palmer withdraws all objection to its being received.

Colonel Palmer. I not only withdraw all objection to its being received, but conceiving it to be of importance to Colonel Quintin, I request it may be received. I wish only to do justice between Colonel Quintin and the officers of the regiment, and should be extremely sorry that any thing which can be of use to Colonel Quintin should be excluded.

Judge Advocate General. Does Colonel Quintin press it upon the Court?

Colonel Quintin. No, certainly not, if there are objections to its being read.

Colonel Palmer. If General Vyse would take the sense of the Court, whether it might not be received, I should really think it might be taken and attached to the defence; and I think the letter, being so much talked of, had better be read.

President. We know as much as that there is a letter certainly operating strongly to Colonel Quintin's advantage, how far the Court cannot tell.

Judge Advocate General. The facts referred to are in years antecedent to the date of these charges, and none of them connected with these charges; no person can suppose it possible that Lord Stewart should have stated any thing untrue; but I will suppose the possibility of a letter being written, stating acts of most heroic gallantry some years back, and produced by a person on his trial: those the person on the other side may know not to be true; and he may say I will undertake to prove that the officer, or whoever it may be on trial, was not present, or did not so act. No, says the Court, we cannot enter into that.

Col. Palmer. Then I only say I undertake not to prove or to say any thing. If this letter does state services of Col. Quintin, it ought to be brought forward, I think.

President. If we read that letter, we must take for granted every fact contained in it.

Col. Palmer. I wish the Court should do so.

Judge Advocate General. No person can be more ready to admit the evidence than Col. Palmer; but I know this hardship has been to be encountered where it has been ruled in the same way: there is one honourable member of this Court, who was upon another Court, on Captain Cochrane's trial. An application was made on that trial, where the rules of the Court were not so strict as they are upon this occasion: he had omitted something, and

wished to bring fresh evidence; the answer of the Court was, that though the rejection of that might operate hardly upon him, yet the mischievous precedent of admitting it, would operate much more strongly upon the public, and the Court then had the assistance of as able a man (who then filled my situation) as ever attended a court-martial, in the capacity I have the honour to fill.

President. I humbly submit it to the Court; it will take but a very few minutes before the Court breaks up, to determine whether it shall be admitted as a part of the original narrative or not.

Judge Advocate Gen. Colonel Palmer has his reply upon the whole.

President. When will it be convenient to you, Colonel Palmer, to make your reply to the defence you have heard?

Col. Palmer. If it only related to the charges, I coul come to the Court to-morrow morning, prepared for that duty; but I do consider that that is the least part of the case that I have to attend to, and that my attention must be particularly turned to some other parts of the defence of Col. Quintin. I have not seen that defence yet, and really it is impossible for me to say exactly when I should be prepared, for it is extremely long. If it was my own cause, I should not hesitate for a moment; but when I have the characters and interests of the whole of the officers of the regiment depending upon me, the Court will see I should make myself completely master of the case.

President. I am very certain the Court will not confine you, but that they will allow you any reasonable time to prepare yourself for the arduous task you have undertaken.

Col. Palmer. From the moment of this proceeding commencing, my time has been so completely taken up, and I feel myself so extremely fatigued, that I really do not find myself at this moment equal to the undertaking; I will get through it as soon as I possibly can; I do not think I could do it under three days; Mr. Harrison has taken four days to write the defence.

President. That would extend to Monday morning. Gentlemen.—Col. Palmer thinks he should not have time to go through so voluminous a defence, and to prepare his reply to it before Monday morning; he wishes there-

fore, by the indulgence of this Court, to be allowed till Monday morning, ten o'clock.

Col. Palmer. I hope the Court does not think the application unreasonable.

President. I do not at all, I assure you, when I consider what you have to go through with; I do not consider it an unreasonable period at all.

Adjourned to Monday morning next, 10 *o'clock.*

SEVENTH DAY.

Monday, October 31st, 1814.

COLONEL PALMER.

General Vyse.—I have to make many apologies to the Court, but by some mistake, I have omitted to bring part of my reply, which I have sent for in the mean time. As there are passages in the defence which, from my being extremely unwell during the time, the Court had the goodness to allow me to prepare my reply, I have not had time to answer upon paper, but which it is very necessary I should explain: I will do it now if the Court will permit me.

Judge Advocate. Probably Colonel Palmer will afterwards furnish me with what he is about to state as part of his reply?

Colonel Palmer. Certainly, Sir, if you please.

The first observation I have to make respects Captain Lloyd.—Colonel Quintin in his defence says, "I was permitted to receive, and to continue to enjoy the honour attached to such approbation, with the full consciousness of having contributed my humble efforts to merit them, and to believe that no one disputed my claim to them. I continued to live upon the same terms with my brother officers, and with one of the officers, Captain Lloyd, who has been a principal witness against me, made an excursion on our way home, of pleasure, to Paris, upon the most friendly footing of personal intercourse. Under these circumstances and with these feelings, the Court will judge of my surprise and astonishment;" and so proceeds, as the Court may recollect.—Now Captain Lloyd has written me a letter, begging I would explain the circumstance to which

Colonel Quintin refers, and I think I cannot give a better explanation than by reading the letter itself, it is this—" Dear Sir. I trust in your reply to-morrow, you will detail the reasons which actuated my conduct towards Colonel Quintin. The reflection implied by him in his defence, and the mention of my name, calls on me for some observations, which I beg may be laid before the Court; this will I hope fully explain why I accompanied him to Paris. I most naturally wished to see that city. On Colonel Quintin's asking me to accompany him, I felt it awkward to refuse, after having expressed my desire to go there, without assigning a personal objection, which I was reluctant to do, as previous to my going abroad he had been uniformly kind and attentive to me. I certainly felt that Colonel Quintin did not afford that support to his officers which would have enabled them to do their duty; yet I imagined it would ill become me to be forward in making animadversions on my superior officer, leaving it to those in command. Previous to my arrival in England, the circumstances which have been brought forward on the trial, were only partially known to me, and not supposing they ever would be the subject of public investigation, I neither weighed or considered it as I ought to have done. The good of the service, and the welfare of the regiment, has alone, I can declare, influenced my conduct; no sentiment of private pique dictated my evidence, which was given on a firm conviction that I was doing my duty as a man and a soldier; and which, I conceive it would have been dishonourable to have withheld from the united cause of my brother officers. This explanation will be, I trust, sufficient to exonerate me from the insinuations Colonel Quintin has thrown on me, with what justice I must leave to others."

Colonel Quintin in another part of his defence, speaking of the letter with the signatures of the officers, says, " It was dated on the 9th of August, and signed by all the officers of the regiment, including the subalterns, except Colonel Palmer, (who, however, avowed his concurrence in opinion with the other officers) Major Howard, the Adjutant, Captain Bromley, Lieutenant Meynell, and Lieutenant Holborn, who refused to sign it." Now, it is necessary for me to state, that this was not the fact: I believe Major Howard refused to sign it; but certainly none of the others, who, from their

situations or absence, were not applied to. Captain Bromley was the adjutant of the regiment, and the officers thought it indelicate to apply to him; another officer, Lieutenant Holborn, was not applied to in consequence of his situation as riding-master in the regiment; and Lieutenant Meynell I believe was absent; but in fact no officer did refuse to sign it but Major Howard: Major Howard was a friend of Colonel Quintin's, and I think it very natural under those circumstances that he should object to it.

Here is another remark, I have to make, where Col. Quintin says, "The letter also of the 20th of August, instead of transmitting the whole letter of the 30th of March;" that is the Adjutant General's letter, "which has been read to the Court, and accompanied as it ought in candour to have been by a statement that the information as to Serjeant Robinson was incorrect, contained only the extract relating to myself." I do not know whether the Court remember the whole of the letter, but I should wish them to read it, and judge whether the officers could have a motive in withholding any part of it. The insinuation is, that the letter was garbled; but what ground is there for saying so? As to Serjeant Robinson, I do not know whether the charge was founded or not; but the Adjutant General's letter was in consequence of a report made to him by an officer of the staff corps, and might have contained fifty complaints: the complaints were as numerous as the Adjutant General states them to be, nor can it be doubted, as Colonel Quintin after compelling the Adjutant General to come over from Ireland (as Mr. Sutton knows) declined calling upon him in his defence.

Colonel Quintin says again, "It may naturally be supposed that after what had passed, I courted and demanded the fullest investigation; and it followed, as the Court will I am sure perceive, as a necessary and inevitable consequence of the circumstances I have stated, and not as a mere subject of command only, as stated by Colonel Palmer, on behalf of himself and his brother officers, that the Commander in chief could pursue no other course, than to order Colonel Palmer, as the senior officer, and the medium of the complaints of the others, and who had avowed his concurrence of opinion with them, (though he had not signed the letter) to deliver charges, and conduct the prosecution. It seems

hardly possible that my prosecutors must not be aware that it could not be permitted to the officers of the regiment, to impute misconduct of such a nature to the commanding officer, without proceeding further, and making their imputation the subject of charge; any other course would be utterly subversive of all military discipline: yet it has been stated by Colonel Palmer, that there never has existed in the minds of my prosecutors a wish to make my conduct the subject of charges; that delicacy prevented their doing so in the first instance, and that the same motives of delicacy produced the delay which has occurred." It appears to me that Colonel Quintin means to state that I complained of being compelled to bring forward these charges. Now, Sir, I think it was impossible for His Royal Highness to act otherwise than he did. Colonel Quintin demanded a court-martial, and it was the only thing His Royal Highness could do to grant it. As to my taking the part of prosecutor, I say, I was not bound to come forward, not having committed myself in any manner so as to render me liable to be called upon, though consistently with my own feelings, and in justice to the officers I could not decline it.

Colonel Quintin says, *I* delivered that letter to the Prince Regent; I say, I did not. I communicated the subject to Colonel Quintin in confidence, and by desire of the officers, in the hope that a public investigation might be avoided: he did not choose that it should be so, that was his affair. I then mentioned the complaints of the officers to the Regent, as I conceived to be my duty, but withheld the letter in question, which would never have made its appearance, had not Colonel Quintin demanded it of the officers in the Regent's name, although the Regent afterwards informed me that he had not authorised Colonel Quintin to make such demand.

Colonel Quintin goes on to state, "the Court have heard in evidence, that the regiment was in high order in every respect when it landed at Lisbon, both as to the men and horses, of which I may be, I hope, permitted in my present situation to avail myself, as having been in the immediate command of it for a long time previous." I conceive that Colonel Quintin's reason for saying this is in consequence of an answer given by General Grant, upon his examination by me, in which

General Grant states, that the regiment came out in high order from England. It may naturally be supposed the appointments of the men were good, and the horses were in good condition; but what I asked of the General related to the conduct of the regiment at Lisbon, and not in England, of which he could know nothing: and I do state most unequivocally that the men's conduct was extremely bad, when they were in quarters in London. When Colonel Quintin gave up the command of the regiment, and I succeeded, an alteration immediately took place; and the regiment being at Guildford two or three weeks before it embarked for Lisbon they became in much better order; they relapsed into their former habits on their first landing, but improved in the manner stated in evidence.

Colonel Quintin says, "after some irregularities the men are stated to have become orderly, and the regiment in a perfect good state as to its discipline, and so continued until my arrival. Upon my joining the regiment, my first attention upon taking the command was directed of course to the state of the regiment; and one of the first circumstances which excited my observation was the frequency and severity of the corporal punishments, many of them exceeding the limit of punishment allowed to be inflicted by regimental courts-martial. The honourable members of the Court are all of them acquainted with the circular letter of the 25th March, 1812, in relation to the extent of corporal punishments by regimental courts, and are also aware that though it has not been thought advisable so far to alter the ancient practice, as to prohibit corporal punishments entirely, yet that they have been of late years very much diminished, and that most earnest wishes have been expressed by every branch of authority connected with the military service, and command of the army, that every possible effort should be made to lessen both their frequency and individual extent; and I need not suggest to the Court that it could not, under such circumstances, even require the repeated injunctions which I have received upon this subject, from the well known humanity and considerate feeling of the illustrious person, who has so long honoured the regiment by his personal command of it, towards the private soldier in the army, to induce me tt strain every effort to endeavour in the regiment under his Royal Highness's immediate command, to shew that

an unremitting attention of the officers to their men, might in a great measure supersede the necessity, or at all events mitigate the extent of corporal punishments, and aid in accomplishing the object which has been considered by all descriptions of persons who have discussed the subject in, or out of parliament, as most desirable, of producing a change as to such punishments, although they may have differed as the practicability of attaining the object, or the prudence of any attempt, at a sudden alteration of system. With these feelings long impressed upon my mind, and upon which I had always endeavoured to act, I looked at the list of courts-martial which I will lay before the Court, with strong sensations of mortification and regret, and I expressed myself satisfied, that a different system, and a strict and unremitting attention to the men in quarters, would in a great measure render recourse to such frequent punishments unnecessary, and that no circumstances could justify the excess of punishment, which I observed in direct violation of the orders upon the subject." Now I do say that that is such a direct attack by Colonel Quintin upon my conduct, and that of Major Robarts, that it calls for an explanation on our part; and to this effect I beg leave to refer to the courts-martial themselves, and the Court will then judge how far this excess of punishment did take place, which Colonel Quintin states.

President. You do not mean to read the whole of the courts-martial I hope, for they are seventy-two in number.

Colonel Palmer. No, I do not; but I am sure, General Vyse, you must see that an explanation on my part is necessary: Colonel Quintin advances that which I must contradict most flatly, whoever may advance it. It is impossible for the best disciplinarian, on service, to preserve order, without the power of inflicting corporal punishment, and if he cannot, I am sure Colonel Quintin must not take upon himself to do it. What I mean to shew to the Court is, that though I brought to trial every man reported by the captain of his troop, I accomplished the object of bringing the regiment into a perfect state of discipline, at the expence of much fewer punishments than were afterwards inflicted by Colonel Quintin, who instead of keeping the regiment in the order he found it in, let it go to pieces, and only commenced punishing when it was too late to check the evil.

Now, Sir, I will just state how the facts stand, I came out to Lisbon on the 17th of February. It appears in evidence, that the men immediately after their arrival, were guilty of excess of drinking: before I took any steps, I called the men together, and told them I was determined to keep up the discipline of the regiment, that it was impossible to go on without it, that I would do every thing I could for their good, but that every man reported to me by his commanding officer, I must and would punish.

After this warning, I gave them another, before I inflicted corporal punishment, by trying and breaking four serjeants, who stand first in this list, which was a very strong measure, and particularly inconvenient at such a moment, as these were perhaps the best serjeants in the regiment, but I felt it necessary to do it for the general good, and thought such an example would have a good effect upon the men. The total number that landed at Lisbon were 603, including officers, and up to the 19th of April, being two months, out of the whole number only nine were punished for drunkenness, or rather neglect of duty in consequence of it, as no man was punished for the mere act.

President. During what period were there only nine punished:—there were 72 instances of punishment, during the period stated in the paper given in according to my notes?

Colonel Palmer. From the 17th of February to the 19th of April there were but nine men punished for drunkenness.

President. Colonel Palmer, I do not wish to blame you or any individual for stating that which you are addressing to the Court—it would not be becoming my situation; but I must tell you that I think you are giving yourself a great deal of unnecessary trouble, because your conduct during the time you commanded the regiment, has been so satisfactory to the Court and to the world, that I think though you may bring it forward to criminate the defendant——

Colonel Palmer. No, indeed, I do not bring it forward with that wiew.

President. I do not say you have not the right, but I am sure you have no necessity to say any thing to put your conduct in a more proper, a more exemplary, and a more honourable point of view.

Colonel Palmer. Sir, it is impossible for me to express how much I am flattered and obliged by what you say; but it is not with a view to prejudice the Court against Colonel Quintin that I state this—I have no other object in discussing this subject but the public good. I am sure the Court must know, and the Judge Advocate knows, that this subject is brought forward in parliament every year; and I feel, that if I did not controvert the opinion of Colonel Quintin, it would be impossible to keep up discipline in the army.—He states that if the other officers had supported him in the command of the regiment, discipline would have been preserved, but that you cannot stop drinking when the men have the means.—Why then, if the men will get drunk equally with flogging or without it, certainly he has a fair excuse for not punishing the men; but, I say, let a commanding officer once convince his regiment that he acts justly by them, and he will stop it; let the men only be convinced that as sure as they get drunk and neglect their duty, so sure they will be punished for it, and the practice is soon checked; but where one man is punished and twenty let off, no good can be done; and the evidence proves the truth of what I say, for the Serjeant Major tells you that the men had every opportunity of drinking at Lisbon, and yet with nearly 600 men in two months, I effectually checked the evil at the expence of only nine punishments, and it appears that out of the whole regiment there was only one man in liquor when they marched out of Lisbon. It has been observed as a reason for their regularity in their march up the country, that they had not the same opportunities of drinking; but that is not the case: on the contrary, it is more difficult to keep the men in order on a march than when stationary, as the men are always moving and changing quarters, and of course it is more difficult to detect and punish the irregularities. From the 19th of April to the 16th of June, with these six hundred men (reduced in number some little in the interval probably) there were but eight men punished for drunkenness—then from the 27th to the 29th of June, there were certainly twelve men punished, and I must explain the reason to the Court. After the battle of Vittoria and the affair of Moralles, when the troops came into Tafalla, it was impossible for any thing to exceed the joy and satisfaction of the people: they had never seen English troops be-

fore, and they actually pulled the men into their houses and made them drink. In an hour afterwards Lord Wellington came in with his staff, and they were obliged to change their quarters, and it was a most disgraceful scene. When the regiment turned out, there were three fourths of the men rolling on their horses quite drunk; the commanding officers felt it necessary to take notice of it, and called upon the captains to select one or two of the worst men in their troops, and whose cases might have been aggravated by other excesses, and these were made an example of for the benefit of the whole: and with this exception it appears from the 29th of April, to the 26th of July, when Colonel Quintin arrived, a period of three months, only eleven were punished by Major Robarts for drunkenness. Then came Colonel Quintin to the command, and here I see on the 9th of August, four men are punished; but these belonged to Captain Wyndham's troop, and this reminds me that Captain now Lieutenant Colonel Wyndham was to have been called upon by Colonel Quintin in his defence, and it is extraordinary, after all Colonel Quintin has said, that he has not ventured to call upon Colonel Wyndham, Major Howard, or a single officer in or out of the regiment to confirm his statements. As for Colonel Wyndham, there is not a more active zealous officer in the service, or one I am sure more sensible of the mischief of Colonel Quintin's system; and this is a pretty strong instance, for when Colonel Quintin went with the remainder of the regiment into the Pyrenees, Captain Wyndham, who remained with a squadron near Pampeluna, took the advantage of the colonel's absence, and flogged these four men; and the consequence was, that when the regiment got together again at Tafalla, Captain Wyndham's squadron was out of all comparison in better order and condition than the others. I asked Captain Wyndham if Colonel Quintin had censured him for taking upon himself to punish the men in his absence, and he declared he had not; which is extraordinary, for if Colonel Quintin approved of his own system, he ought not to have suffered Captain Wyndham to have acted so directly in opposition to it.

The first man I see whom Colonel Quintin brings to trial, is this Mr. Abbott, about whom so much has been said.—Now really nothing could be worse in a military

point of view, than this man's crime, and there never was a moment more necessary for the preservation of discipline in the regiment. It was only two or three days before that a serjeant with his picquet had been intercepted by a body of the enemy's infantry in returning from his patrol, and only escaped by gallantly charging through them with the loss of two men. I mention, to shew how necessary it was for us to be on the alert, and yet at such a moment Abbott on patrol gets drunk, and behaves improperly in other respects, and when brought up for punishment is pardoned. It was said in the defence, that this man was ill, and that he died in consequence of his illness at this time.—Sir, it is no such thing, and instead of Captain Gordon telling Colonel Quintin that the man ought not to be punished, Major Robarts states most distinctly to me, that Captain Gordon complained to him that Colonel Quintin did not punish him, and that so far from the man being ill on the arrival of the regiment at Tafalla, he behaved in such an outrageous and disorderly manner, that Major Robarts was obliged to take notice of it.

President. There are some strong facts as to this man. It is proved that he was ordered to be drilled, and the serjeant has deposed that he walked till he could walk no longer, and was then sent to the hospital, and died there.

Colonel Palmer. It was not so indeed.

Judge Advocate Gen. There was a subsequent enquiry, and upon that subsequent enquiry, it appeared that he did not die of that illness, or at all events in that hospital, but that he went several months afterwards to another hospital, in which he died.

Lieut. Gen. Houston. Yes, that is as the fact subsequently appeared.

Colonel Palmer. Major Robarts was ill at the time he was at Tafalla, and this man who was quartered near him, made such an uproar that he was obliged to send to keep him quiet.

President. After I have expressed to the Court very freely my opinion of your conduct, without the least intention of flattering you, I hope the Court will not think I trespass upon their time, when I mention one circumstance favourable to Colonel Quintin, considering that an excess of punishment is contrary to the spirit of the English constitution and the regulations of the

English army. When Colonel Quintin joined the army, and found there had been so many instances of punishment, amounting to seventy-two in number, it was natural for him to endeavour, to recur to the principles of lenity, recommended by the Duke of York, and to see what would be the effect of that system, so highly recommended; and I hope the conduct of men will be as much affected by the lenity and attention of their officers as by their severity. Colonel Quintin mentioned it with great modesty, saying only that he would endeavour to adopt a system of punishment more congenial to the system recommended. If he failed in that design there was certainly merit in it, though he might not be successful.

Colonel Palmer. How many does Colonel Quintin say there are?

President. I counted seventy-two myself on some list.

Colonel Palmer. There are but forty-two on this list, which is that furnished by Colonel Quintin.

President. I have not my notes here, for they have become too voluminous to carry about with me; but I know I made out that number, from some paper I saw before the Court.

Colonel Palmer. Colonel Quintin joined the regiment the end of July, and with the exception of a few days in the Pyrenees, we continued at Tafalla from that time to November, above three months. Here the men were stationary in quarters, and nothing could have been easier than to have kept them in the same order he found them in; but they broke out on his arrival, and so far from attempting to check them, it appears that during the whole of this time only two men are punished for neglect of duty from drunkenness, and thus encouraged, the men became confirmed in their habits, and the punishments came too late to effect the object of restoring the discipline of the regiment, to say nothing of the inconvenience and injury to the regiment, in having to punish the men, when on a march, and near the enemy, from its being so difficult to collect them together for the purpose; but those excesses were so great, there was no avoiding it, and the punishments increased, without restoring the discipline, till at last, as appears by this register, Colonel Quintin himself has six men flogged for drunkenness in one day;

and thus, without effecting the object, Colonel Quintin punished the men much more frequently than I did, notwithstanding the contrast between the state of the regiment during the periods.

I have to apologize to the Court, for troubling them with these observations; but I think the Judge Advocate will agree with me in the necessity of controverting such statements, which if true must completely justify the opinion of Sir Francis Burdett, and others, on this subject, and enable them to carry their point; for certainly the practice of corporal punishment is only to be defended upon the ground of its absolute necessity, and I can have no other motive but the good of the service in stating my conviction upon this point. I will now proceed to my written reply.

General Vyse and Gentlemen of the Court Martial.—Colonel Quintin having prefaced his defence upon these charges with a statement of considerable length, explanatory of his own conduct, and the conduct of those with whom he is at issue; I must in the first instance advert to such parts of it which I conceive necessary to be answered, assuring the Court that it is not my intention to follow the example of Colonel Quintin, by indulging myself in any observations that do not relate distinctly to the charges in question; but shall confine myself to a plain relation of the facts, leaving it to the Court to draw the inference.

I must first request the permission of the Court to mention the circumstance of my return to this country, to which Colonel Quintin refers in the opening of his defence; and which when explained will, I trust, justify the anxiety I feel on the subject. Colonel Quintin has stated my wish to remain in England on account of parliamentary business, and that I returned soon after I had landed in Portugal, leaving the command with Major Roberts; and he then goes on to say, that it was about the middle of the following year that he found his health sufficiently re-established to induce him to determine to go out, and that he reached the regiment on the 25th of July. Now I am far from imputing to Col. Quintin the least intention to mislead the Court; but it is impossible for any person unacquainted with the circumstance, to read his statement without drawing a comparison between his conduct and my own, from a supposition that I had gone out unwillingly with the

regiment, and had returned immediately, upon my own private business, at that interesting moment, which urged Colonel Quintin, in spite of the remonstrances of his physician, to go out at all hazards to join his regiment. Now the fact was, that I did not reach this country until after Colonel Quintin had left it; nor should I have quitted the regiment, had I not been certain, from the letters I had received, that he was on his passage, and could not fail to arrive in time to join in the operations of the campaign; the regiment which lay in quarters near Lisbon having received no orders to march when I left it, and Colonel Quintin being then expected daily. With respect to the occasion which brought me back, whatever feelings I might naturally have been supposed to entertain, upon a subject wherein the interests of my family were so deeply involved, I can assure the Court that such considerations did not for a moment interfere with the duty I owed to my own character and my profession; and the moment it was decided that Col. Quintin was not to go out in command of the regiment, I immediately gave up all thoughts of that which, under other circumstances, I might have reconciled with my professional duties; for had Colonel Quintin embarked with the regiment, it would then have been my duty to have remained with the depôt: and nothing but the resolution afterwards adopted by Colonel Quintin induced me to return. Could I have anticipated what followed, and that Colonel Quintin, who left England in April, was not to reach his regiment till the end of July, after the battle of Vittoria, and the affair at Moralles, which is alluded to in the evidence, I need hardly say, that the officer who commanded on the occasion could not have had the opportunity of gaining that promotion in his rank, which proves the merit that was attached to the conduct of the regiment, and his own on the occasion. And I flatter myself that I shall obtain credit for my anxiety to return to my duty, when I state that after the conclusion of the business which brought me over, I again left this country in July, and reached the head-quarters of Lord Wellington in the field on the morning of the 29th, being the fourth day after the arrival of Colonel Quintin at the regiment.

The next point I must notice, is where Colonel Quintin adverts to the question put to Lord Combermere, whether he reported himself in an ill state of health,

and begs the Court to allow him to avail himself of this question and answer of his prosecutor, as a strong proof of his zealous and anxious wish not to shrink from the most active services. Now, in the first place, this question was not put by me; for I made no question of the matter: it was put, as appears by the minutes, by Gen. Vicars; and I cannot but feel satisfied at the circumstance, as the answer prevents all plea for neglect of duty upon that score. As far as giving Colonel Quintin the utmost credit for coming out to his regiment, and making all convenient speed to join it, there is not an officer in the regiment, whatever may be his opinion of them, who is not ready to allow it. But Colonel Quintin means to impress the Court with an idea, that he was unfit for the active duty he had to perform upon his arrival at the regiment, and that during the whole campaign, with the exception of a temporary indisposition, to which every one was liable, his general health was not as good as that of other officers. I must beg him to state other grounds to influence the opinion of the Court than the answer he has referred to. With respect to my Lord Combermere, on considering his observations, that he thought Colonel Quintin, from a bad state of health, or some other cause, was unfit to command the regiment on active service, I think the Court must feel that his lordship wished to make the best excuse he could for Colonel Quintin's conduct, and to account for his own lenity in not having adopted harsher measures respecting him. Lord Combermere states, that he had heard of his being in bad health, and that he appeared so, and which his lordship might naturally conclude from having heard it reported, and the circumstance of Colonel Quintin's being always cloaked in cold or wet weather; but I can assure the Court, from myself and the rest of the officers, who were in the daily habit of seeing him, that he never appeared to us in better health; and upon inquiry of the medical officer attached to the cavalry, who had constant opportunities of seeing him, as well as the medical officers of the regiment, I am warranted in stating that with the exception of the temporary indisposition that I have mentioned, his general health was as good as that of other officers.

I shall here pass over Colonel Quintin's observations upon Lord Combermere's order of the 26th February, and come at once to the letter of the 9th of August, ad-

dressed by the officers to the Prince Regent, which has been admitted by me on their part, and which Colonel Quintin states to have heard nothing of from the period of my having mentioned the subject to him, on the 15th of August, until the time it was delivered to his Royal Highness, and read in Colonel Quintin's presence.

I must first observe, with respect to myself, that upon the cessation of hostilities, after the battle of Toulouse, I applied for the command of the detachment of dismounted men who were sent home by Bourdeaux, and in consequence left the regiment in the month of May; nor did I join it again in this country until subsequent to the measure to which the present proceedings are to be ascribed.—The first intimation I received upon the subject, was by an officer of the regiment who brought me the letter of the 9th of August, which has been produced in Court, requesting me, on the part of the officers, to present it to the Regent, and give His Royal Highness such further information on the subject as might be required. The officer who was the bearer of this communication, stated in the name of himself and the other officers, that they could no longer remain in a situation to which they had only submitted so long from motives of respect to His Royal Highness, and in the hope that the circumstances of their situation would be communicated through other channels. They had been disappointed in that hope, and were driven to the necessity of justifying themselves from the imputation cast upon the regiment; and in appealing to His Royal Highness upon the occasion, as their colonel, leaving His Royal Highness to adopt such measures as he might think proper, they trusted they had pursued the best course which the delicacy of their situation could have pointed out: at the same time they were anxious that I should communicate their sentiments and intentions in the first instance to Colonel Quintin, flattering themselves that a consideration for the feelings of His Royal Highness, might induce him to consent to some private enquiry and arbitration in the matter, which might perhaps spare His Royal Highness the regret that such an appeal on their parts must occasion. As I approved the principles and motives of their conduct, I did not hesitate to render them every assistance the delicacy of my situation would admit of:—my first object, therefore, was to find Colonel Quintin; to whom as he states

I related the communication which had taken place between the officers and myself; and endeavoured to convince him that so general a feeling amongst them could not arise from prejudice or party spirit, or any other cause than a sense of duty to themselves and the regiment; and that they could not give a stronger proof of their being actuated by no personal motives than their anxiety to prevent the publicity of this unhappy affair. Colonel Quintin, in reply, declined all conversation upon the matter, or to read the letter which was intended for the Regent, and only desired that any complaints the officers might have to make against him should be stated to His Royal Highness.—Accordingly I sought an opportunity of waiting upon the Regent; but before I could obtain it the absence of Colonel Quintin left me in the command of the regiment; and as I knew the only wish of the officers was to induce His Royal Highness to enquire into the state of the regiment, I thought the object would be better attained by my withholding the letter in question, and taking upon myself, as commanding officer, to inform His Royal Highness of the situation of the officers, and the necessity of his interference. At this interview I did not find myself at liberty to enter into so *full an explanation* as I had hoped, and which I was the more desirous of doing, as Colonel Quintin, who had returned unexpectedly to the regiment, was present; and the result was, that His Royal Highness commanded me to inform the officers that if they had any complaints to make against their commanding officer, they must bring them forward as specific charges to be submitted to the Commander in Chief.—While the officers were considering His Royal Highness's message, communicated through me, Colonel Quintin, having called them together, demanded of me, in their presence, the letter addressed to his Royal Highness, which I had withheld. This I declined; considering that the letter, by having been withheld, had virtually been withdrawn, and another course pursued; and I observed to Colonel Quintin, that I had communicated all the circumstances in confidence, and in point of candour to him, before I waited upon the Regent, and in the hope that the knowledge of such a general feeling on the part of the officers would induce him to consider the subject in the temperate light it deserved, and prevent the necessity of an appeal to His Royal

Highness; but that I certainly could not have meant by such a communication to give him any advantage over the officers by anticipating them in their complaints to His Royal Highness.—However, Colonel Quintin still insisted upon its delivery, and told the officers it was the command of the Regent that it should be given up; and it was expressly with this understanding that the letter was delivered to His Royal Highness. And I feel myself bound to state this particularly, because I was afterwards informed by His Royal Highness that he did not authorize Colonel Quintin to make such demand.—With respect to his anticipating me with His Royal Highness, and relating what passed between us, I cannot but regret the circumstance, considering that His Royal Highness had never before (as I can take upon myself to say)—heard any thing of the matter, or to the prejudice of an individual whom he had always been led to think highly of. It may be supposed that the complaints of the officers could not have been communicated through a more unfortunate channel than that of the person against whom they complained—the officers thus situated, whilst they felt the greatest reluctance to bring forward charges against their commanding officer, were sensible that it did not rest with them to choose the mode of enquiry into his conduct, His Royal Highness having expressed his commands on the subject; but in expressing their obedience to such commands, they were anxious to state their regret that such proceeding should have been thought necessary, and their earnest hope that it might be dispensed with: and these feelings were made known to His Royal Highness in the letter of the 30th, produced to the Court by Colonel Quintin.

I now beg leave to call the attention of the Court to the charges preferred against Colonel Quintin, to the way in which they have been proved by the evidence I have adduced in support of them, and also to the nature of the defence which Colonel Quintin has chosen to set up against them.

In support of the first charge, it is in evidence, that the regiment foraged on the day stated in the valley of Macoy under the command of Colonel Quintin; that the brigade orders, which directed the regiment so to forage, pointed out the proper and timely arrangements which were to be made for that purpose; that instead of these timely arrangements being made, that it was 12 o'clock at noon,

and that two troops had actually began to forage in the valley, before Col. Quintin dispatched Capt. Lloyd to Gen. Morillo for the parties of infantry to cover the foragers; that the troops so detached had a short time only began to forage before they were attacked by the enemy; that Colonel Quintin was within a short distance of the foragers when the attack began; that he left them without orders or support when so attacked; that some of the men and horses were taken; and that the safety of the foraging divisions was hazarded.

Now what is Colonel Quintin's answer? Colonel Quintin admits having the order, but says it was evening before he received it, and too late to send to General Morillo that night; that he gave orders to send a subaltern officer to that general the next morning at daybreak for a covering party, and then himself proceeded to the valley: he states the way in which he found the valley occupied by our troops and the Spaniards.—He then states some misapprehension on his part of the brigade order, and connects that misapprehension with the way in which he relates the valley to be occupied by Spaniards and British.

Colonel Quintin then says, that upon arriving at the valley, not finding the officer who had been sent on (and I shall shew that no officer could or had been sent) or a proper covering party, he dispatched Captain Lloyd to General Morillo. A few men then, Colonel Quintin says, turning out when Captain Lloyd was gone, the Spanish picquets being in his front, and an English picquet at the church of Macoy, and concluding that his last message to General Morillo would soon give him a sufficient covering party (although Captain Lloyd, the Court will observe, had two miles to go for the order, and in the then state of the roads, which Colonel Quintin knew, to take that order to the outposts) he allowed the foraging to begin; and then, holding the attack light which was made upon the troops, although it is evident, he at the time knew nothing of their fate, and was leaving them under fire, Colonel Quintin concludes that part of his narrative with this most extraordinary declaration for a commanding officer, under such circumstances— "I therefore," says Colonel Quintin, "took the regiment back foraging as we returned up the hill, leaving, as has been stated, the troops nearest where the enemy had ad-

vanced in the valley; but naturally concluding that they would *follow* and *overtake or fall in* with us by a different road."—Now I beg leave to ask the Court, whether they could have believed it possible, that any officer in the command of a regiment, with part of it under such circumstances could make such a confession? That he could confess he left the troops attacked, no order, it is proved, of any description having been sent to them, or a single person being left to tell them, which way the regiment had retreated, in a fog too, which was one of Colonel Quintin's reasons for retiring, and content himself (I quote his words) *with naturally concluding that the troops would follow and overtake or fall in with him?* Why, gentlemen of the court-martial, without discussing minor points, I might leave this charge where it is, and be satisfied that enough of it is established against Colonel Quintin, and that upon his own confession, to draw down the severest sentence of this Court upon him. But Colonel Quintin seems to claim for himself some merit, upon the calculation he had made of the loss which the regiment might sustain, and at the anxiety he seemed to express when Captain Fitzclarence came to report to him the situation of his troop.—Now referring to the evidence of Captains Stuart and Fitzclarence, and of Lieutenant Fitzclarence, which I do, to shew the nature and danger of the attack made by the enemy on the foraging divisions, I refer the Court also to the evidence of the two first named officers, to shew that, from the moment of the attack, they were without orders or support of any description, but that which their own prudence suggested to them: and yet, from all the evidence which can be collected, allowing for the variance in opinion which there may exist as to distance, Colonel Quintin appears from the moment the first shot was fired, to his leading the retreat of the regiment up the mountain upon his return, to have been within a short distance from the spot where the safety of those troops was hazarded.

But Colonel Quintin, who, I beg the Court to observe, rests his defence to this charge upon the events as they accidentally happened, not as they were produced by his prudence, holds the attack, as far as relates to the enemy's cavalry, light, because Lieutenant Fitzclarence is unable from where he was placed to ascertain their nature or their number. But Captain Stuart, who with his troop was in a different situation, and the Court

will recollect the nature of the country, gives a different account of their numbers and appearance; adding that had he been attacked by superior numbers he should have engaged them, expecting support from Colonel Quintin. Indeed Captain Stuart's evidence is so descriptive of the circumstances of the attack, that I cannot help here introducing it, to shew, how little Colonel Quintin's calculations were warranted, and how unofficer-like it was in him to be speculating upon the safety of these divisions, instead of performing his duty by personally ascertaining it, or at least, sending those on whom he could depend. Captain Stuart says, that after nearly completing his foraging, the vidette he had placed on his front came galloping in, and informed him that the enemy were advancing with cavalry and infantry; that he went up to see, and observed the enemy advancing with cavalry and infantry, towards the Spanish picquet; that he rode back and formed his troop in rear of it; which he had scarcely done, when the picquet was driven back in confusion; that having no orders he remained on the ground as long as he could, and then retired through the Spanish cantonments, not knowing the road the regiment had taken by Macoy.—So much for Colonel *Quintin's* unofficer-like conclusion, that the troops would *follow and overtake* or fall in with him.—And it was not till afternoon, the Court sees, when Colonel Quintin sent for Captain Stuart, that Colonel Quintin found his speculations upon the safety of the troops verified.

With respect to the anxiety Colonel Quintin betrayed to Captain Fitzclarence, when that officer found him at the top of the hill, two miles, the Court will observe, from where he had left the foragers under fire, and attacked, I must own I give him no credit for it, as a feeling of laudable interest for the fate of the troops. This anxiety of Colonel Quintin's at this period when Capt. Fitzclarence came up, is to me the strongest evidence of his misconduct. It was the natural feeling of a man who knew that he had left great duties unperformed, and that he had consigned to chance the safety of those who had been specially entrusted to his charge. Had Colonel Quintin performed his duty upon that occasion, instead of his making these anxious enquiries respecting the fate of the troops, it was he who should have been able to satisfy the feelings of the regiment for

the safety of their comrades. And I can take upon myself to assert, that had it been becoming to have examined the men as to the sensations of the regiment when Colonel Quintin led it to the rear, and left these troops under fire, it would have proved, that there existed the strongest marks of anxiety and fear for their fate.

It really is painful for me to be continually calling upon the Court to look to evidence; but if they will refer to Serjeant Marchant's statement, at the period of the attack, they will see that at this moment of difficulty and hazard to the troops in question, Colonel Quintin, instead of displaying the energy and zeal of a commanding officer under such circumstances, is tamely riding his horse to and fro, occasionally looking at the enemy; and then without advancing himself, which I contend under the circumstances (in opposition to Col. Quintin's assertion to the contrary) he should have done in person (for I was never weak enough to suppose that in the state of the roads he was to move with the regiment) or detaching any one else to support the troops, he quietly, as he himself states, is contented with filing and leading the regiment to the rear, through all the intricacies of the country, leaving the foragers under the fire and attack of an enemy, whose strength he had taken no measures to ascertain, and whose power to hazard the safety of such divisions, he had taken no means to enquire into.

With respect to Colonel Quintin's assertion, that he sent an officer at day-break on the 10th to General Morillo, no such circumstance took place.

The truth is, Colonel Quintin mistook the tenor of the order, and instead of attending to the letter of it, which directs the report to be made to General Morillo, he concluded, it appears, that it had been matter of previous arrangement, and considered, as he says in his defence, that he was certain of being covered without much previous notice; in fact, that the mere detaching an officer and a quarter master early to seek for forage would be sufficient notice. Then why does not Col. Quintin acknowledge this? Why bring the acting adjutant to swear that some officer, he knows not whom, was detached at day-break. Does the orderly book contain such an order on the 9th? I can answer No. The fact is, it was on the 12th that Lieut. Fitzclarence

and Wyndham were in orders to go to General Morillo previously to the regiment's foraging on that day in the valley of Macoy. And the Colonel and the Serjeant Major, to say the least of it, have confounded the circumstances and the dates. But the Court, if they look to the way in which Captain Lloyd was sent to General Morillo, without any expressions of surprize on the part of Colonel Quintin that no covering party was afforded in consequence of his application, and recollect too the silence with which Colonel Quintin received General Morillo's rebuke for the lateness of his application, they will be satisfied that the application had not been previously made. Had Colonel Quintin made the application, he would have stated it at the time. The officer who had been sent would have been enquired for at the instant, and have been the object of severe rebuke, if not of some more serious proceeding. But there is another strong circumstance, which shews that Colonel Quintin, even at the period the Court were trying the first charge, had no idea of any such excuse; and that is, his suffering Captain Lloyd to be examined to the very point, and Lieut. Fitzclarence to appear as a witness to the charge, and putting no question to either of them in cross-examination to elucidate the circumstance.

Before, however, I close my observations on this charge, I must beg to call the attention of the Court to the evidence of Brigade Major Jones, who, although he the instant he heard the firing rode off to the nearest infantry post to bring up some detachments of infantry to support the foragers whom he had heard were in the valley; yet tells the Court he considered a covering party had been stationed, because there was an order to apply to General Morillo for the purpose.

But if there could be a doubt that the effect of this want of arrangement produced the loss of the men and horses, Brigade Major Jones's evidence removes the difficulty; for his opinion is (and he appears to have well known the ground and the nature of the country) that if a covering chain had been established it would have prevented a sudden surprize, and probably have saved the loss of the men and horses. Indeed he goes further, and states that one hundred men properly posted would have stopped a large body of infantry. What would they have done when it appears by the evidence and Colonel Quintin's admission, that they were the enemy's

picquets only that advanced, although Colonel Quintin at the time had no means, and certainly took no means, to ascertain the force?

But the whole of Colonel Quintin's conduct was a mass of confusion and inconsistency. Quarter Master Eyres, it appears, found forage amidst plenty and security; and yet such was the arrangement, that no advantage could be taken of it; and Lieut. Fitzclarence is seen, by Colonel Quintin's order, seeking for forage in General Morillo's cantonments, after an express direction that they were to be respected.

There are many other observations that suggest themselves upon this charge; but the Court evinces such honourable pains in the investigation of the evidence, that it is scarcely necessary to utter them.

But I perhaps may be permitted to call the attention of the Court to Lord Edward Somerset's letter of the 16th, which was produced by Colonel Quintin's want of arrangement on the 10th; and I think that the Court, connecting that letter as they will with the evidence on this charge, will be forcibly struck with the application of Lord Combermere's opinion of Colonel Quintin's inadequacy to the command of a regiment of light dragoons upon active service.

Upon the second charge the point is in a very narrow compass, and reduces itself to this question, whether Colonel Quintin upon the occasion alluded to gave that support by his presence and example which he was bound to do? And how does Colonel Quintin answer this? Why, Colonel Quintin rests his defence upon his former character; upon the place which a commanding officer, he conceives, is at his pleasure entitled to take; and in some measure, more than I think is worthy of Colonel Quintin, upon the fleetness of his horse. With respect to Colonel Quintin's former character, I am disposed to give Colonel Quintin the full benefit of it; but what has Colonel Quintin's character upon a former occasion to do with the dereliction of his duty upon this? Will any man say that with the very limited service Colonel Quintin had seen, a service of two months only, in which other officers of the regiment were engaged, and I trust could bring as much testimony as Colonel Quintin to their character; is a limited service like this to establish Colonel Quintin for ever, and to put an end to all necessity for future exam-

ple and exertion? Colonel Quintin, I beg to tell the Court, has officers in the regiment of longer date than himself in tried and approved service; and it ill becomes Colonel Quintin, I think, upon the strength of two affairs, and two months service only, to be comparing the claims I make upon his example to an eagerness scarcely pardonable in a young officer. But Colonel Quintin, I beg to tell the court, in relation to his service, is a very young officer; and it should not be forgotten that this very affair of the 28th was the first since Col. Quintin had joined, in which he had an opportunity of shewing himself to a regiment almost new in officers and men, since the occasion upon which he had formerly served with it, and from which he draws his character. But the case has never been properly put to the Court, and not one of the questions to Lord Uxbridge met Colonel Quinton's situation at the time his conduct was first impeached. The question to Lord Uxbridge put Colonel Quintin not at the *head* but on the *flank* of the column with the leading division, supposing that to have been the place he had originally occupied. But the evidence places him where he really was, when within fifty yards of the enemy, that is, not on the flank but at the *head*, and in *front* of the leading division. Lieut. Fitzclarence expressly places Colonel Quintin reining in (so much for his horse wanting speed) in front of the leading division. Serjeant Lacey, Colonel Quintin's orderly, who says he passed him at twenty yards only from the enemy, states himself at the time to have been with Colonel Quintin in *front* of the leading division; and French, a private, who was with the leading division, and who passed Colonel Quintin with the others, upon being asked by the President whether he was in the front rank of the division; answers yes; and he (meaning Colonel Quintin) was in front of me. Here, then, is Colonel Quintin in front, not on the flank, as he afterwards was, of the leading division. Why was not Lord Uxbridge asked whether Colonel Quintin, being once in front of the leading division, within twenty yards of the enemy, as his orderly places him, could then ride out to the flank, and encourage by his voice only, instead of animating by his example. The answer is perhaps obvious: because if Lord Uxbridge, or Gen. Vivian, who might have been examined to the point, could have said yes to such a question, it might have

been retorted upon them by the whole army, that it was notorious that their practice was at variance with their opinions.

With respect to Serjeant Lacey's silly and idle invention of the state and condition of Colonel Quintin's mare, I was at first disgusted with it, as tending to heap unmerited odium upon that officer, or indeed upon any officer in the command of a dragoon regiment. To imagine that such an excuse could prevail for a commanding officer's failing at the moment of a charge in the discharge of his duty, is too monstrous to be entertained; but with Colonel Quintin, above all other men, a light weight, remarkable for the selection of his horses, and admittedly one of the most complete horsemen in Europe, that he, commanding a regiment of Hussars, should at the instant of a charge, when the regiment had comparatively done nothing, and when every trooper's horse was found equal to the effort, that he, the Colonel only, should find himself, from his horse being blown, unequal to the conflict, is, as I said before, to heap unmerited odium upon Colonel Quintin. Lacey, indeed, did state that many of the horses were in this predicament and fell back; but there was not a man examined after him, officer or private, who did not positively contradict him. But although Colonel Quintin does not adopt Serjeant Lacey's excuse of want of condition, he is willing, it appears by his defence, to excuse himself in some measure by stating the inferiority of his own and of some of the officers' horses to the troop horses of the regiment. Without waiting to express my surprise at this statement of Colonel Quintin respecting his own horse, I will ask him whether he ever heard that any officer in the regiment had condescended to offer such an excuse, for not being more forward than the men upon an occasion like the one in question? Nor was the want of speed the complaint of the men on that day. It is evident there was speed and strength enough the moment Colonel Quintin ceased to repress the advance of the men.

And here I beg leave to tell the Court that although I am not prepared to charge Colonel Quintin with actually misbehaving before the enemy, in the sense in which that charge is generally taken, and in the way in which it is generally proved, yet I must openly avow that Colonel Quintin's conduct to me bears an aspect

little less censurable. It is matter of indifference to me whether the efforts of the men are paralyzed by want of courage, or want of proper officer-like feeling: in my mind the culpability is the same.

I disclaim all wish to place the commanding officer of a regiment; but when a commanding officer places himself at the head and in the front of the leading supporting division—remains there the greatest part of the day—receives the order to charge the enemy, still remaining in the front of the division—trots in the front of it—gallops in front of it, and arrives within fifty yards of the enemy in front of it (his own orderly states within twenty) the head of the column actually engaged, and at this moment suddenly disappears from the front, moves to the flank, checks his horse, and the men finding themselves constrained leave him behind; is there an officer in Europe who will say that the most serious consequences might not ensue from it? Brave as the men are, every man knows the force of example, and particularly the example of a commanding officer *of cavalry;* and I repeat without fear of contradiction, that Colonel Quintin's conduct at this moment might have been productive of the most serious consequences to the service: and I may add that I *believe* from my heart that it was only counteracted by the zeal and gallantry displayed by the officers who accompanied me in the charge, and to whose efforts I attribute its success.

Up to this period I have got no further than to the first charge made on the enemy when Colonel Quintin fell out. I now come to my being left without orders or support, when I formed the divisions, and called for Colonel Quintin, at the time the French threatened to attack us in return, and Lieutenant Beauchamp, Lord Combermere's aid-de-camp, rode to the rear to Colonel Quintin, to bring me support, seeing himself, and knowing from my sentiments, that support was necessary. Was there any choice then of situation which Colonel Quintin as commanding officer was to select? Can any excuse after the halt the charge had occasioned be found in the want of speed or condition of Colonel Quintin's horse? Colonel Quintin, however, it is in evidence, did not appear till the French went about upon our advancing a second time without his support, and then, when Lieutenant Colonel Gardiner's guns are

brought forward, Colonel Quintin is seen at the head of the centre squadron, that being the first time he appeared from the moment he left the head of the leading division of the right squadron as they were riding down to the attack in which Captain Harding was wounded.

I really am not disposed to use harsh expressions to any one, but I cannot help saying that Colonel Quintin's defence to this part of the charge, betrays in my mind a want of feeling I little expected to have found in him. He is distinctly charged and proved to have afforded me no support of any description upon the second attempt I made upon the enemy, and yet it is proved it was both wanted and called for. Lieutenant Beauchamp and other witnesses present upon the occasion prove these facts.—Now how does Colonel Quintin answer this? He states his surprize at the singular mode in which the order I gave for fetching him was executed; stating that had he heard it, its singularity would have occasioned it not to be forgotten by him, and then says, that feeling confident that it is quite unnecessary for him to trouble the Court upon it, he shall call a witness for reasons he has mentioned to prove that a great many horses were pressed on that day.—If ever there was less reason to say any thing upon the condition of the horses on that day this to be sure was the moment; for the Court must remember how completely it is in evidence, that when it was put to the men whether their horses were ready for another charge, an universal "yes" prevailed upon the occasion.—But, as I took the liberty of stating before, there is an actual want of feeling in Colonel Quintin's answer to this part of the charge. Is it nothing to have such an interval of danger and anxiety without the presence of the commanding officer of the regiment as that which took place between the first charge on the enemy and the attempt to charge them a second time? Was it not Colonel Quintin's business to have made himself master of our situation, and to have furnished us with his support? Is it not proved that the French were threatening us, and did actually advance in numbers sufficiently imposing to induce Lieutenant Beauchamp to gallop off for support?—It happened fortunately, it is true, that the French upon being advanced upon without the support did not stand; but Colonel Quintin, the Court sees, lent no aid to that: and I rest satisfied

that the Court will see and feel his culpability for the omission, and the truth of the accusation that he left us without his co-operation or support.

Upon the second part of the second charge, the object of which is to prove that Colonel Quintin quitted the front of Captain de Grammont's squadron the instant it was fired upon, putting it to the rear himself, and then leaving it without orders: the evidence I submit is as clear as possible. Captain Fitzgerald was a subaltern on that day, and commanded the skirmishers in the front of Captain de Grammont's squadron: he says he remembers the volley from the infantry in the wood. In about a minute after, he observed the French coming forward at a gallop, with an intention to drive in the skirmishers. Having but few with him, he thought it prudent to look back to see how he was supported. He did so, and found the rear of the supporting division put about, and retreated to some distance. The overpowering body of the French, he says, obliged him to do the same. After the supporting body had retreated some distance, he observed Captain de Grammont waving his sword, and desiring the men to look to him, for he was their captain. Captain Fitzgerald then joined Captain de Grammont's division: it had already fronted. Upon observing this, the advanced division of the French pulled short up quite on a sudden, threw out their skirmishers and retired. He then says, that when he heard Captain de Grammont call to his men to front, he did not see Colonel Quintin, nor did he see him before he went back to the skirmishers.

Captain Stuart, who was present with his troop, supplies the deficiency in Captain Fitzgerald's evidence, as to who put the squadron about, and says it was Colonel Quintin. That Captain de Grammont came up, and ordered the leading division to front. At this time Colonel Quintin had passed Captain Stuart's division to the rear. After that, he did not see Colonel Quintin for some time. Captain de Grammont called so loud from the front to his division to front, that Captain Stuart says his men heard him, and turned immediately.

Then comes Captain Lloyd; and his evidence is so far material, that he proves, upon the volley being fired, Colonel Quintin put his troop about, and passed him to the rear: that he did not see Colonel Quintin come up again; and that he fronted his troop again, not from any

order, but that seeing the front division formed again, and seeing the enemy coming galloping down the hill towards them, he thought it his duty to front his division again without orders.

Yet, with this mass of evidence to prove that Colonel Quintin was not seen again after he had put the column to the rear, and that it was Captain de Grammont who fronted it again, Colonel Quintin pretends to say, that the order was given by him.

The testimony he produces in support of this assertion, I must leave with the Court, because I really cannot so far compliment Colonel Quintin, as to take his assertion for proof. But I think the Court must begin to be seriously struck with the repeated occasions in which Colonel Quintin appears to be any where but in the discharge of his duty, when that duty is to be discharged in the face of danger. At Macoy, trifling as the affair was, for the shot, although they came into the nets, appear not to have hit the men, Colonel Quintin has his reasons for not being present. In the first charge on the enemy on this day, Colonel Quintin chooses to assign to himself (it is for the Court to say how properly,) his own situation. When I was forming the divisions again on this day, to meet the advance of the enemy, and actually did advance to charge them, Colonel Quintin appears not to be present, although in the field. Then, on the same day comes this occasion when Colonel Quintin disappears from the head of the column the moment it is under fire, and is not again seen by any officer belonging to it whilst the firing continues; surrendering it, in truth, into other hands, and leaving it without orders. It then appears, that Captain de Grammont is forced to give it orders; and Colonel Quintin is pleased to call this vivacity. I can tell Colonel Quintin, it was a vivacity that saved the reputation of the regiment; and, from the way in which the French were advancing, perhaps the destruction of the column we were leading. I shall make no further comments on the defence to this charge.

I must now beg to introduce the answers I have received from the Duc de Guiche relative to this charge.

President. You had better submit the letter to the revision of the Judge Advocate, and he will determine whether it is that which we may hear read.

Judge Advocate General. I can give no opinion upon it; that, I conceive, must depend upon the decision of the

other side. What is proposed to be introduced cannot be evidence on one side or the other; and I conceive, the Court will follow the opinion I endeavoured to express. It will be recollected, that understanding questions had been sent to the Duc de Guiche by Colonel Palmer on one side, and by Colonel Quintin on the other; that the Duc de Guiche had sent to Colonel Quintin a copy of his answer to Colonel Palmer, and to Colonel Palmer a copy of his answer to Colonel Quintin; I stated that if they chose to make use of them, it must be in their speeches; that they could not be evidence: that it was impossible to draw the line so strict, as to say what was the introduction that might be allowed of by the Court of that which was not legal evidence; but that if either party chose to object to it, the Court had no alternative, but must support the objection; and that if after all they were to be used, they were to be used only in consequence of that irregularity being waved.

Colonel Palmer. I have no wish to press it; but it is necessary I should know from Colonel Quintin whether he objects to it or not.

Judge Advocate General. From the communication made to me, I find Colonel Quintin does object to it.

Colonel Palmer. Very well, then I have nothing more to say upon this charge.

In reply to Colonel Quintin's defence to the third charge, I shall begin by stating the evidence I produced in support of it; and I think, except in the very immaterial point of whether Colonel Quintin was present at the instant Captain Fitzclarence was wounded, there is scarcely any difference between his statement and my proof.

Colonel Quintin, it is proved, commanded the regiment; it was in a column of divisions across the road. Orders were given to charge a body of French cavalry; when the regiment came within a hundred yards of them the enemy went about. The 10th followed them; and when nearly at the top of the hill, they came under the fire of the enemy's infantry, at a distance of about eighty yards; and the 10th halted. Colonel Quintin was at its head, and so were Major Howard, Captain Fitzclarence, and Lieutenant Wyndham, when the firing began. As soon as it began, Colonel Quintin was missing. Major Howard, who was left with Captain Fitzclarence, and Lieutenant Wyndham, it is sworn, then said to Captain Fitzclarence, "what shall we do now?" Major Howard then sent Lieutenant Wyndham to Lord Edward Somerset

for orders; and Lieutenant Wyndham returned with the orders. He did not see Colonel Quintin; and delivered them to Major Howard. Captain Fitzclarence was about this time wounded, The regiment had then been under fire about seven minutes.

The defence admits that when the firing began, Colonel Quintin went into the field, by the road side, to see what the nature of the attack was—that not being able to ascertain it, he came back to the road a short time before Captain Fitzclarence was wounded, and then he appears anxious to contradict Captain Fitzclarence's statement, that Colonel Quintin was not present when he was wounded, as if that point was material to the question.—Now the Court will recollect that Captain Fitzclarence gave his testimony to this fact, stating, that his memory of what happened, at the instant of his being wounded, might be a little imperfect on account of the pain he suffered, but that he spoke to the best of his belief, and that, before he was wounded, meaning just before, he certainly did not see the Colonel in front. I may here mention what perhaps may further account for Captain Fitzclarence's want of recollection at this moment, as just before he was wounded, his sword was broken by a ball close to the hilt, as he held it in his hand.

Now the witnesses Colonel Quintin has produced to contradict Captain Fitzclarence, have certainly not done themselves much credit. No two of them speak alike, either as to Colonel Quintin's situation or that of Captain Fitzclarence. One of Colonel Quintin's witnesses puts Colonel Quintin to the front, another places him in a ditch under a bank—one witness has Captain Fitzclarence wounded before the regiment halted—another five minutes after the halt. Contradictory as this is, there are, however, these strong facts in evidence, namely, that Colonel Quintin quitted the head of the regiment the moment it was under fire, leaving it without orders—that orders being deemed necessary, Major Howard was forced to send Lieutenant Wyndham to Lord Edward Somerset for them, and that Colonel Quintin was not present when Lieutenant Wyndham returned with Lord Edward's answer, and that answer he therefore delivered to Major Howard. In addition to these facts there is Colonel Quintin's admission of his absence. Now the Court must observe, that there is here another

instance of Colonel Quintin's quitting his post at the moment of danger; and I shall beg to ask the Court, whether the excuse for so doing is an officer-like excuse. Every man who has been in service knows the difficulty of keeping cavalry steady under a galling fire of infantry—it requires the best countenance and presence of the officers, and above all of the commanding officer; and yet this is the moment Colonel Quintin selects, to go, as he says, to ascertain the strength of the enemy. Who saw Colonel Quintin in the field he alludes to? He brings no man to state it. Had the object he affects to have had in view been necessary, Lord Combermere and his staff, and Lord Edward Somerset with his were near to have effected it. I state then, without the hazard of contradiction; for Colonel Quintin in this instance assumes no right to choose his situation, that Col. Quintin's pretence for his absence was unwarrantable, unofficer-like, and prejudicial to the service; and if the Court will add that to the catalogue I have already produced of the instances in which I charge Col. Quintin with preferring his safety to his duty, I have no fear but that the Court will agree with me in the language of the charge which has been preferred against him.

The truth of the allegations on the fourth charge have been so fully proved by all the witnesses who have been produced, either for or against the prosecution, that I shall have but little occasion to trespass long upon the patience of the Court, in any attempt, either to apply the evidence to the charge as it stands, or to assist that evidence by observations in support of it.

But before I discharge my duty in the little which remains for me to do, I think I may ask the Court whether the officers of the regiment have complained of Colonel Quintin without cause; and whether upon the evidence it was not a duty they owed to themselves, to make their representations somewhere? I ask the Court, with confidence, but I can add without triumph; for victory in the paltry sense of it, is no feeling of the officers of the regiment, whether it appears from the time Colonel Quintin first joined the regiment in the field to the present moment, that they have engendered one hostile personal sensation towards him; and whether the feelings by which they have been actuated, and the measures they have in consequence taken, are not such as might be avowed consistently with the most strict notions of subordination, and the highest sense of military discipline; and I will

ask one question more, for malevolence has attempted to attack the principles of the regiment upon this occasion, and that is, whether the officers did not owe it to the public service, and to the illustrious person who has so long honoured them with his protection, to make the disclosure this investigation has produced; and I consider this the more necessary, because Col. Quintin chooses to allude to the letter, which appears to have induced this prosecution, (much I may add against the wish of the officers) as manifesting a party-feeling, and of the spirit existing, and which had long existed in the regiment; and then asks what prejudices must have been existing when the subalterns could have been induced to sign a letter in which they express their opinions on subjects which could not possibly have come within their personal knowledge, or of superior officers, who could induce subalterns necessarily ignorant of the forms and usages of the service, to take a step evidently so improper. Are the forms and usages of the service of that description, that officers who feel a pride in their regiment, and its reputation, and perform with cheerfulness and alacrity all the subordinate duties of their situation, must see the honour, the character, and the well-being of the very regiment itself sacrificed without redress, or the hope of it, because their complaint, dutifully and respectfully as it may be made, is to be construed into an infringement upon the forms and usages of the service? Can officers in subordinate situations suffer no wrongs? Will the Court have the goodness to recal to their minds these periods, at which, either as captains of troops or companies, they might have felt a pride in their situations, and then ask themselves what their sensations would have been, had they been left unsupported in their commands, and have seen their regiments daily falling to pieces in their interior management, and losing their public estimation, because their complaints were left unheeded, and their exertions unassisted: and having done their all, will the Court say, that had they made their complaint as the officers of the 10th have done, and have proved the same foundations for those complaints, which I trust the officers of the 10th have done, they would have expected to have been told, from any authority whatever, that they had violated the rules and usages of the service.

Having said thus much upon the situation and sensations of the officers, and I trust, with the feelings of the

Court in their favour, I shall now proceed to a short discussion of this charge; for as I at first stated, the evidence wants but little explanation.

Having laid before the Court, and proved the cavalry orders of the 26th of February, and the Adjutant General's letter to Lord Edward Somerset, dated the 29th of March last, I have only to call the attention of the Court to the proofs I adduced of neglect of duty in Colonel Quintin, by allowing a relaxed discipline to exist in the regiment.

For the truth of the opinions contained in that order and letter, I need only refer to the evidence of Lord Combermere and Lord Edward Somerset, because it would be weakening them to quote them; but this I cannot help observing to the Court, that it did not happen that any question put to either of those noble lords produced one single syllable in favour of Col. Quintin, in any one of the relations in which he stood under their command, either in the field or in quarters, when those questions were referrable to the discipline of the regiment.

If either of those noble lords were asked whether the regiment turned out quickly, whether it assembled in time with the brigade, whether the baggage was properly moved, the answers were invariably, No; If it was asked to what that was attributable, the answer was, want of energy and system in the commanding officer. If enquiry was made of Lord Edward Somerset, to what the want of discipline in the regiment was attributable, the answer was, want of system in the commanding officer: nay, so far at last was it carried, that Lord Edward was forced to have the reports of delinquencies in the regiment made to himself, that he might see to the punishment; thus virtually taking from Col. Quintin the command of the 10th.

Can any man, after this, wonder that the officers of the regiment should lose their confidence in Col. Quintin, or that the spirit which Col. Quintin deprecates, should have engendered itself by a measure so calculated to lessen him in the respect of the regiment. That Colonel Quintin has been guilty of general neglect of duty, by allowing a relaxed discipline to exist in the regiment, is proved as I at first stated, by every witness examined for or against the prosecution; the captains particularly manifesting, that it was in spite of their remonstrances, which

at last became so ineffectual, that they ceased any longer to repeat them. And what is Col. Quintin's answer to this? It may be popular, perhaps, as expressing a wish to diminish corporal punishments, but as applied to the military service of this country in the field, I should be wanting to myself, and doing injustice to my country, if I did not expressly state that, desirable as it may be at home, and I am as willing as any man to listen to the claims of humanity, that in the field it would be ruin to the service, and to the best interests of the country. Having said thus much, I shall no longer exhaust the patience of the Court; but thanking it for the kindness and attention it has been pleased to shew me in the course of this tedious business, I shall leave the cause of the officers of the 10th with confidence to their decision; satisfied that it will be governed by that impartiality which is to be expected from officers of their rank and independence.

Having finished my reply, I will only add, that there is one circumstance I have omitted, which it may not be necessary for me to advert to, I mean that part of Col. Quintin's defence which alludes to my conduct, relative to the report of the surgeon, upon the causes of the great sickness in the regiment. I flatter myself I have already explained the matter satisfactorily to the Court, as far as relates to myself, nor do I wish to say any more upon the subject; but as I stated rather warmly the other day, that I should explain all the circumstances to the Court, in justice to Mr. Morrison, I feel in some measure bound to do it, but it really is not my wish to urge any thing more that may be considered hostile to Col. Quintin, and shall content myself with stating, that Mr. Morrison, upon this occasion, did no more than he was compelled to do, and that Col. Quintin had no reason whatever to complain of his conduct; and in this and every thing else that I may have said in my reply, I trust, if Col. Quintin is not perfectly satisfied upon the subject, the Court will allow him to trouble them with any further explanations he may think necessary.

President. The room must now be cleared for the Court to deliberate.

GENERAL ORDER.

Horse-Guards, 10th November, 1814.

His Royal Highness the Commander in Chief has been pleased to direct that the following copy of a letter, containing the opinion and sentence of a General Court-martial recently held for the trial of Colonel George Quentin, of the 10th, or Prince of Wales's own royal regiment of Light Dragoons, and the Prince Regent's pleasure thereon, shall be entered in the general order books, and read at the head of every regiment in his Majesty's service.

By command of his Royal Highness the Commander in chief,
HARRY CALVERT, Adj.-General.

(Copy.)

Horse-Guards, 8th November, 1814.

Sir,—I have laid before the Prince Regent the proceedings of a General Court-Martial, held at Whitehall, on the 17th of October, 1814, and continued by adjournments to the 1st of November following, for the trial of Colonel George Quentin, of the 10th Royal Hussars, who was arraigned upon the following charges, viz.—

1st Charge.—"That on the 10th day of January, 1814, the regiment being on that day on duty, foraging in the valley of Macoy, in France, and the said Colonel Quentin having the command of the regiment, did not make the proper and timely arrangements to ensure the success of the regiment in its operations of foraging, although directed so to do by the brigade order of the 9th of January, 1814, but neglected and abandoned his duty as commanding officer, leaving some of the divisions without orders or support when attacked by the enemy, whereby some men and horses of the regiment were taken prisoners, and the safety of such divisions hazarded: such conduct on the part of the said Colonel Quentin evincing great professional incapacity, tending to lessen the confidence of the soldiers of the regiment in the skill and courage of their officers, being unbecoming and disgraceful to his character as an officer, prejudicial to good order and military discipline, and contrary to the articles of war.

2d Charge.—"The said Colonel Quentin having the command of the regiment, the day after the battle of Orthes, viz. on the 28th day of February, 1814, on the high road leading to St. Sever, in front of the village of Hagelman, department of Landes, in France, and the regiment being on that day engaged with the enemy, he, the said Colonel Quentin did not, previously to, or during the period the regiment was so engaged, make such effectual attempts as he ought

to have done, by his presence, and by his own personal exertions and example, to co-operate with, or support the advanced divisions of the 10th Hussars, under his command, but neglected and abandoned his duty as commanding officer, and thereby hazarded the safety of those divisions, and the character and reputation of the regiment: such conduct on the part of the said Colonel Quentin tending to lessen the confidence of the soldiers in the skill and courage of their officers, being unbecoming his character as an officer, prejudicial to good order and military discipline, and contrary to the articles of war.

3d Charge.—"That on the 10th day of April, 1814, during the battle of Toulouse, in France, the said Colonel Quentin, having the command of the regiment, and the regiment being on that day in the presence of, and attacked by, the enemy, he, the said Colonel Quentin, did not, during such attack, make such effectual attempts as he ought to have done by his presence and his own personal exertions, to co-operate with, or support the advanced divisions of the regiment under his command, but neglected and abandoned his duty as commanding officer, leaving some of the divisions, when under fire from the enemy, without orders, and thereby unnecessarily hazarding the safety and reputation of those divisions: such conduct on the part of the said Colonel Quentin tending to lessen the confidence of the soldiers of the regiment in the skill and courage of their officers, being unbecoming and disgraceful to his character as an officer, prejudicial to good order and military discipline, and contrary to the articles of war.

4th Charge.—"For general neglect of duty, by allowing a relaxed discipline to exist in the regiment under his command when on foreign service, by which the reputation of the regiment suffered in the opinion of the Commander of the Forces, and of the Lieutenant General commanding the cavalry, their displeasure having been expressed, or implied, in a letter from the Adjutant General of the forces on the Continent, addressed to Major General Lord Edward Somerset, commanding the hussar brigade, dated on or about the 29th of March, 1814; and in the orders of the Lieutenant General commanding the cavalry, dated the 26th of February, 1814: such conduct on the part of the said Colonel Quentin being unbecoming his character as an officer, prejudicial to his Majesty's service, and subversive of all order and military regulation and discipline, and contrary to the articles of war."

Upon which charges the Court came to the following decision:—

"The Court having maturely weighed and considered the evidence adduced on the part of the prosecution, as well as what

has been offered in defence, are of opinion that Colonel Quentin is guilty of so much of the first charge as imputes to him having neglected his duty as commanding officer, on the 10th of January, by leaving some of the divisions without orders when attacked by the enemy, but acquit him of the remainder of the charges.

"With respect to the second charge, the Court are of opinion that Colonel Quentin is not guilty.

"With respect to the third charge, the Court are of opinion that Colonel Quentin is not guilty.

"With respect to the fourth charge, the Court are of opinion that a relaxed discipline, as set forth in that charge, did exist in the regiment under Colonel Quentin's command, whilst on foreign service, during the period alluded to in the letter and orders referred to in the charge, and as they cannot but consider the commanding officer of a regiment to be responsible for such relaxation of discipline, they therefore think themselves bound to find Colonel Quentin guilty to the extent of *allowing it to exist;* but as they consider the letter from the Adjutant General to the troops on the Continent, of March 30th, 1814, expressing the displeasure of the Commander of the Forces, as a reprimand to Colonel Quentin adequate to the degree of blame which attached to him, the Court do not feel themselves called upon to give any sentence upon this charge in the way of further punishment, and they consider that any thing unusual in this determination will be explained by the singularity of the circumstances attending this charge, by which an officer is put upon his trial for conduct which had before been the subject of animadversion by those under whose command he was then serving, but which at the time was not considered deserving of a more serious proceeding by the Commander of the Forces; nor does it appear to have been made the subject of any remonstrance or request for a more serious investigation on the part of the officers of the regiment.

"The Court having found the prisoner guilty of so much of the first charge as is above expressed, and so much of the fourth charge as is above recited, with the reasons which induce the Court to feel they are not called upon to affix any punishment to the last mentioned charge, do only adjudge, with reference to the first charge, that Colonel Quentin be reprimanded in such manner as his Royal Highness the Commander in Chief shall be pleased to direct.

"The Court, however, cannot conclude these proceedings without expressing their regret, that there appears to have existed such a want of co-operation among the officers of the regiment, as to render the duties of the commanding officer much more arduous than they otherwise would have been."

I am to acquaint you, that His Royal Highness the Prince Regent has been pleased, in the name and on the behalf of His Majesty, to approve and confirm the finding and sentence of the Court.

His Royal Highness has further been pleased to consider, that, when the officers of a corps prefer accusations affecting the honour and professional character of their commander, nothing but the most conclusive proof of their charges before a court-martial can justify a proceeding which must otherwise be so pregnant with mischief to the discipline of the army; and that a regard due to the subordination of the service must ever attach a severe responsibility to subordinate officers who become the accusers of their superior. His Royal Highness, therefore, could not but regret that the officers of the 10th Hussars should have been so unmindful of what they owe to the first principles of their profession, as to assume an opinion of their commander's personal conduct, which neither their general experience of the service, nor their knowledge of the alleged facts (as appears from their own evidence,) could sanction or justify,—and which opinion would appear, from the proceedings, to have been utterly void of foundation, in every instance of implied attack or insinuation upon that officer's courage and conduct before the enemy, as conveyed by the tenor of the second and third charges.

In allusion to the letter signed by the chief part of the officers, and in which the present proceedings originated, the Prince Regent has specially observed that, exclusive of the doubt which may be entertained of their capability to form a judgment so much beyond the scope of their experience in the service, it was worthy of remark, that some who have affixed their names to that paper had never been with the regiment during the period in question, and others had never joined any military body beyond the depot of their corps; and it might thus be deduced, that although the officers have manifested, according to the appropriate remark of the court-martial, a want of co-operation in support of their commander's authority, yet those who have assumed a personal observance of Colonel Quentin's conduct, and those who, *though absent*, appear to have acted under a mischievous influence, by joining in an opinion to his prejudice, have all co-operated in a compact against their commanding officer, fraught with evils of the most injurious tendency to the discipline of the service: nor did it escape the notice of His Royal Highness, that this accusation has not been the momentary offspring of irritated feelings, but the deliberate issue of a long and extraordinary delay, for which no sufficient reasons, or explanation, have been assigned.

In this view of the case (which is not palliated by the very slight censure passed on Colonel Quentin upon the 1st charge) His Royal Highness has considered that a mark of his displeasure towards those officers is essential to the vital interests of the army; and that the nature of the combination against Colonel Quentin, would call for the removal from the service of those who have joined in it; but as His Royal Highness would

willingly be guided by a lenient disposition towards a corps of officers who have hitherto merited his approbation, and would willingly believe that *inadvertency* in some, and *inexperience* in others, had left them unaware of the mischievous tendency of their conduct upon this occasion, His Royal Highness is averse to adopt such severe measures as the custom of the service in support of its discipline usually sanctions, upon the failure of charges against a commanding officer. Still it is essential that conduct so injurious in its nature, should be held forth to the army as a warning in support of subordination; and His Royal Highness has, therefore, commanded, that the officers who signed the letter of the 9th of August, shall no longer act together as a corps, but that they shall be distributed by exchange throughout the different regiments of cavalry in the service, where it is trusted that they will learn and confine themselves to their subordinate duties, until their services and experience shall sanction their being placed in ranks and situations, where they may be allowed to judge of the general and higher duties of the profession.

The Prince Regent has been further pleased to observe, that though Colonel Palmer did not sign the letter of the 9th of August, he is nevertheless, by his declared sentiments on the prosecution, and his general concurrence in the opinion of the officers, to be considered in the same light as if he had put his name to that paper, and His Royal Highness has therefore commanded that he shall also be removed to another corps.

I am, &c.

(Signed) FREDERICK,
Commander in Chief.

To the Adjutant-General,
&c. &c. &c.

THE END.

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